

EXHIBIT 23


**CITY OF SAN LEANDRO
STAFF REPORT**


APPROVED AND FORWARDED
TO CITY COUNCIL


John Jermanis
City Manager

DATE: May 7, 2007

TO: John Jermanis, City Manager

FROM: Hanson Horn, Community Development Director 

BY: Debbie Pollart, Planning Manager 

SUBJECT PROJECT/PROJECT DESCRIPTION:

MATTER OF APPEAL BY INTERNATIONAL CHURCH FOURSQUARE GOSPEL, APPLICANT, OF THE DECISION OF THE PLANNING COMMISSION'S DENIAL OF PLN2006-00049; REZONE AND ZONING MAP AMENDMENT TO REZONE THE PROPERTIES IDENTIFIED AS 14600 AND 14850 CATALINA STREET FROM INDUSTRIAL PARK (IP) TO INDUSTRIAL PARK, ASSEMBLY USE OVERLAY (IP-AU). NO PHYSICAL CHANGES TO THE PROPERTIES ARE PROPOSED AS PART OF THIS ENTITLEMENT. THE PROJECT SITE IS LOCATED AT THE SOUTHEAST CORNER OF CATALINA STREET AND FARALLON DRIVE AND IS COMPRISED OF THREE SEPARATE PARCELS; ASSESSOR'S PARCEL NUMBERS 80G-933-20, -21, AND -22-1; INTERNATIONAL CHURCH FOURSQUARE GOSPEL (PROPERTY OWNER AND APPLICANT).

SUMMARY AND RECOMMENDATION

On April 12, 2007, the Planning Commission denied a rezone of the properties in question to include the Assembly Use overlay (-AU). The project site is currently zoned Industrial Park (IP) and is not one of the sites recently rezoned to include the Assembly Use overlay. The applicant wishes to have the Assembly Use overlay applied to the property so that they could move their existing assembly facility from Manor Boulevard. With the Assembly Use overlay, the applicant could apply for the necessary Conditional Use Permit needed for assembly uses. Without the overlay, the property is not permitted, nor conditionally permitted for assembly uses.

Based upon the General Plan policies and Zoning Code regulations that were the basis for the Assembly Use Overlay criteria, the fact that the City's industrial zones are designed to and do in fact accommodate materials and activities that pose at least a potential hazard to human populations and that such presence and the potential future presence of hazardous materials and activities in the vicinity of the project site and the intended assembly use, renders it inappropriate for rezoning with the Assembly Use Overlay, the Planning Commission and staff recommend that the City Council make a motion to uphold the denial of the rezone and deny the appeal.

EXHIBIT 23

Appeal of the Planning Commission Denial
PLN2006-00049

2

May 7, 2007

BACKGROUND

- The subject property is located at the southeast corner of Catalina Street and Farallon Drive, and encompasses an area of approximately 3.5 acres. It contains an existing 46,080 square foot office building (former headquarters for MDL) and approximately 180 parking spaces.
- The appellant recently purchased the property. On May 18, 2006, staff received an application from FFC requesting a Zoning Code amendment to conditionally permit Assembly uses in Industrial Limited (IL) zones, and to rezone their property from Industrial Professional (IP) to IL (thus setting up the possibility for review of a use permit for an assembly use at the 14600 Catalina site).
- Currently, the Zoning Code conditionally permits Religious Assembly uses in R districts, and Faith Fellowship's current location at 577 Manor is zoned RS (PD), Residential Single-Family, Planned Development Overlay District. Faith Fellowship Church (FFC) is the constituent congregation of the parent church and formal applicant/appellant, International Church Foursquare Gospel.
- A joint work session with the Board of Zoning Adjustments and Planning Commission was held on October 19. Based upon policy and criteria set forth in the General Plan, staff presented two options for consideration: 1) Amend the Zoning Code to allow Assembly Uses as conditionally permitted in the IL zone; and 2) Apply an Assembly Use Overlay to identified areas. The direction given by the Board and Commission was for staff to move forward with consideration of Option 2. Subsequent to the joint work session, this option was presented to several advisory committees, including the West San Leandro/MacArthur Boulevard Redevelopment Area Advisory Committee, the Chamber of Commerce Government Affairs Committee, and the Joint Redevelopment Area Advisory Committee. At the December 7, 2006 Board of Zoning Adjustments meeting, the refined proposal for an Assembly Use Overlay was presented to the Board for comment. On February 22, 2007 the Planning Commission recommended approval of the proposed Zoning Code and Map amendments. On March 19, the City Council approved Zoning Code and Map amendments related to formation of an Assembly Use Overlay, and rezoned 196 properties (in commercial and industrial districts) that met the Overlay criteria with the Assembly Use (-AU) overlay. These changes will become effective May 1.
- On April 12, 2007, the Planning Commission conducted a public hearing and heard this matter. After closing the public hearing the majority of the Commission discussed that although they felt empathy for the appellant and their existing situation, they could not support the requested rezone because it would be in conflict with the policies of the General Plan. One Commissioner was in support of the rezone and felt that there would yield economic benefits for the commercial businesses in the area. The Commission denied the application with a 4:1 vote based on the recommended Findings for Denial. Draft minutes from that meeting are attached.
- The appellant's statement for reasons for consideration of the appeal include that their application is consistent with the General Plan, is good planning, and the purposes of the

Appeal of the Planning Commission Denial
PLN2006-00049

3

May 7, 2007

assembly overlay district support the project's approval as presented in their letters and testimony at the April 12 Planning Commission meeting.

Current City Council Policy

Not applicable

Previous City Council Action

Not applicable

City Council Committee Review and Action

The original application by the appellant, to have assembly uses be conditionally permitted in the IL District, was presented to the Business and Housing Development Sub-committee at their June 8, 2006 meeting. At the Sub-committee's October 12 meeting, staff presented two proposed options (assembly uses conditionally permitted in the IL District; and formation of an Assembly Use overlay), indicating that a joint work session with the Board of Zoning Adjustments and Planning Commission would be held the following week to review the two options.

Applicable General Plan Policy

The attached Planning Commission staff report provides an extensive review and analysis of the applicable General Plan policies and Zoning Code sections that formed the basis for creation of the Assembly Use overlay. Staff notes that Sections 5-2708 B and 5-2712 C of the Zoning Code stipulate that recommendations for approval of Zoning Map amendments must be made with a finding that such approval "...is consistent with the policies of the General Plan and the purposes of this [Zoning] Code."

Permits and/or Variances Granted

Not applicable

Environmental Review

In anticipation of the applicant's desire to revise their application to have their property rezoned with the Assembly Use Overlay, staff included the Catalina Street properties in the Negative Declaration that was prepared for the Assembly Use Overlay. This document had the required 20-day public review period (February 1-20) and was adopted by the City Council on March 19. No further environmental review is required.

Code Compliance Review

Not applicable

Appeal of the Planning Commission Denial
PLN2006-00049

4

May 7, 2007

Board/Commission Findings

The Planning Commission reviewed this application at their April 12, 2007 meeting. At the conclusion of the public hearing the Planning Commission denied the rezone. The Findings of Fact for Denial of the application is attached to this report.

Summary of Public Outreach Efforts

For the April 12, 2007 Planning Commission meeting, a legal ad was placed in the Daily Review and notices for the hearing were sent to all businesses and property owners within a 300-foot radius of the project site. Notices were posted on the property and on telephone poles or light poles within the 300-foot radius. In addition, courtesy notices were sent to the following homeowners associations: Marina Faire, Marina Gardens, Marina Seagate, Marina Vista, Bonaire, and Washington/Manor.

At the Planning Commission meeting, in addition to the correspondence attached to the staff report, two letters of opposition were received and one letter of support submitted by the applicant's attorney. The residents in proximity to the Catalina site expressed their concern over potential traffic and parking impacts, and the potential tax implications. In addition, the appellant provided a petition from Marina Faire businesses with 10 signatures; a petition from the Manor neighborhood with 201 signatures; and a petition with 1,445 signatures from church members.

Fiscal Impact

Not applicable

Budget Authority

Not applicable

Attachments:

1. Vicinity Map
2. Application for Appeal with the Appellant's Statement to the City Clerk and City Council – Basis for Appeal, dated April 16, 2007
3. Planning Commission Findings of Fact for Denial
4. Planning Commission Staff Report, dated April 12, 2007
5. Draft Excerpts from the Minutes of the Planning Commission Meeting of April 12, 2007
6. Correspondence

CONCLUSION

Based upon the General Plan policies and Zoning Code regulations that were the basis for the Assembly Use Overlay criteria, the fact that the City's industrial zones are designed to and do in fact accommodate materials and activities that pose at least a potential hazard to human populations and that such presence and the potential future presence of hazardous materials and activities in the vicinity of the project site and the intended assembly use, renders it inappropriate

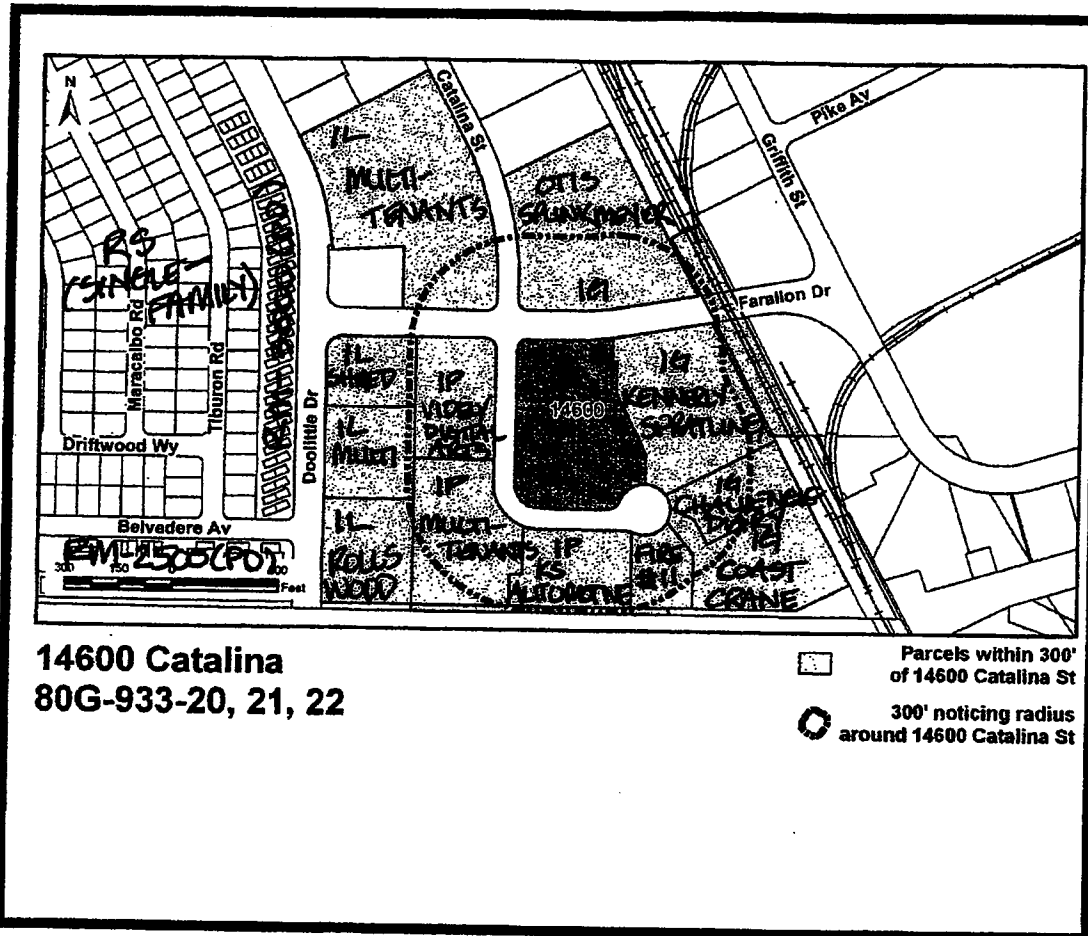
Appeal of the Planning Commission Denial
PLN2006-00049

5

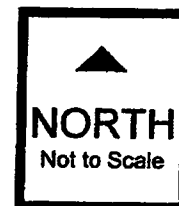
May 7, 2007

for rezoning with the Assembly Use Overlay, the Planning Commission and staff recommend that the City Council make a motion to uphold the denial of the rezone and deny the appeal.

**City of San Leandro
Planning Commission
Staff Report
VICINITY MAP
Showing Existing Land Uses and Zoning**



Meeting Date:	April 12, 2007
File Number:	PLN2007-00049
Applicant:	Faith Fellowship Foursquare Church
Address:	14600/14850 Catalina
Assessor's Parcel No.:	80G-933-20; -21; -22-1
Project Planner:	Debbie Pollart, Planning Manager



Case 3:07-cv-03605-PJH Document 132-21 Filed 08/27/2008 Page 8 of 53



CITY OF SAN LEANDRO
 City Clerk's Office
 835 East 14th Street, San Leandro, CA 94577
 Telephone: (510) 577-3366 Fax: (510) 577-3340

DATE RECEIVED
 CITY CLERK'S OFFICE

APR 16 2007

CITY OF SAN LEANDRO

APPLICATION FOR APPEAL TO CITY COUNCIL

GENERAL INFORMATION

This appeal application must be submitted within fifteen (15) calendar days of the decision, and within ten (10) calendar days of a Tentative Map approval. If the appeal period ends on a weekend or holiday, the time limit shall be extended to the next business day.

Please note that decisions of the Zoning Enforcement Official (ZEO) or the Community Development Director are appealed to the Board of Zoning Adjustments or the Planning Commission, depending on the specific project or issue. An Appeal Application to the Planning Commission/Board of Zoning Adjustments must be used for these appeals and is available at the Community Development Department.

APPELLANT INFORMATION (Please print)

Name: Faith Fellowship Church - Tim Lee

Relationship to Project:

☒ Applicant ☐ Concerned Resident ☐ Other _____

Daytime Telephone Number:

510-357-5723

Email Address:

tim@faith-fellowship.us

Mailing Address:

577 Manor Blvd, San Leandro Ca. 94579

An appeal is hereby submitted on the decision of:

☐ Board of Zoning Adjustments ☒ Planning Commission ☐ Site Development Sub-Commission ☐ Other _____

For the ☒ Approval or ☒ Denial of:

Planning (PLN) Permit Number:

PLN 2006-0049

Date of Action:

4-12-2007

Project Address:

14600 Catalina ST, San Leandro Ca. 94579

Reasons for Appeal (List all grounds relied upon in making this appeal. Attach additional sheets if more space is needed):

The application is consistent with the General Plan, good planning, and the purposes of the assembly area law district for all reasons presented in our letter and testimony at the planning commission on 4-12-07

Signature:

[Signature]

Date:

4-15-07

Please return the completed form with a check for \$260 (made payable to the City of San Leandro) to the City Clerk's Office at the address shown above. If the appellant is the applicant, direct costs for processing the appeal, which may include but are not limited to preparation of staff reports and meeting attendance, are charged in addition to the appeal fee.

APPEAL APPLICATION

Filed timely

☒ Yes ☐ No

Received by

Marian Handa

Appeal fee

\$ 260.00 (attach copy of receipt)

Office Use Only

CITY COUNCIL HEARING

Scheduled for

05-21-2007

Checklist due on

04-23-2007 to City Clerk's Office

cc: Planner

Debbie Pollart

Revised August 2006

**City of San Leandro
Community Development Department
Planning Services Division**

**FINDINGS OF FACT FOR DENIAL OF
PLN2006-00049 – 14600 and 14850 Catalina Street
International Church Foursquare Gospel (Applicant and Property Owner)**

The matter of the application of PLN2006-00049 was heard by the Planning Commission on Thursday, April 12, 2007, at a formal public hearing. After due consideration of all public testimony, the staff report, the San Leandro General Plan and the San Leandro Zoning Code, the Commission makes the following Findings of Fact, and determines that each of them is true.

I

The property located at 14600 and 14850 Catalina Street, Assessor's Parcel Numbers 80G-933-20, -21, and 22-1, is in the Industrial Park (IP) District.

II

The subject property has an approximate area of 3.55 acres. It was formerly used as office headquarters for a data software company.

III

The applicant proposes to rezone the subject property from IP Industrial Park to IP(AU) Industrial Park, Assembly Use Overlay District, in order to apply for a conditional use permit for a proposed assembly use on the site.

IV

The proposed rezoning for inclusion in the Assembly Use Overlay is not consistent with the discussion in the City's General Plan on page 3-52, relating to appropriate industrial areas identified as being most-suitable for conversion to non-industrial uses. In addition, the project is not consistent with General Plan policies 7.09, 7.10, 10.04, 13.01, and 33.04, and Zoning Code Articles 1 and 7 which speak to industrial uses, all of which were utilized as the basis for criteria utilized in the formation of the Assembly Use Overlay District.

V

The property does not meet all of the criteria established for the Assembly Use Overlay. Specifically, the property is located within one of the identified General Plan Focus Areas; and the property does not abut or is not located within ¼ mile of an arterial. For the 196 properties identified to be rezoned with the Assembly Use Overlay, all eight criteria were met.

VI

Within 500 feet of the subject property, eight businesses have filed Hazardous Material Business Plans (HMBPs); within ¼ mile of the site, an additional 13 businesses operate under a HMBP. The City's industrial zones are designed to and do in fact accommodate materials and activities that pose at least a potential hazard to human populations. The presence, and the potential future presence, of hazardous materials and activities in the vicinity of the project site and the intended assembly use, renders it inappropriate for rezoning with the Assembly Use Overlay.

VII

Denial of the requested rezone for the property does not place a substantial burden on the religious exercise of the applicant, in that the applicant's existing site remains available for assembly uses. Further, with the recent changes to the Zoning Code to establish an Assembly Use Overlay district, 196 additional properties within the City will now be available for consideration of a conditional use permit for assembly uses. The creation of the Assembly Use Overlay creates added opportunities for assembly uses to locate, over what is currently permitted. In addition, staff believes that denial of the rezone would advance the City's compelling interest two-fold: in safeguarding the congregants from exposure to potentially adverse health and safety impacts of surrounding industrial uses; and maintaining adherence to the policies provided in the General Plan, which provided the basis for development of the Assembly Use overlay criteria.

VIII

In recommending this denial, staff believes that there is no less restrictive means (i.e. no means short of outright denial of the rezone) that would further the City's interest in safeguarding the health and safety of the future congregants and the City's interests that led to formation of the Assembly Use overlay. In support of this conclusion, it is anticipated that any future conditions of approval that would be placed on a conditional use permit issued for the proposed assembly use (last entitlement required if rezone is approved), would not effectively ensure the health and safety of the congregants. For the formation of the Assembly Use overlay, the City cannot, by some less restrictive alternative to denial, change the facts that make the property inconsistent with the criteria formulated for establishment of the Assembly Use overlay designation.

ACTION

The Planning Commission denied PLN2006-00049 on April 12, 2007.

**City of San Leandro
Community Development Department
Planning Services Division
Staff Report**

DATE: April 12, 2007

TO: Planning Commission

FROM: Debbie Pollart, Planning Manager 

SUBJECT: PLN2006-00049; Rezone and Zoning Map Amendment to rezone the properties identified as 14600 and 14850 Catalina Street from Industrial Park (IP) to Industrial Park, Assembly Use Overlay (IP-AU). No physical changes to the properties are proposed as part of this entitlement. The project site is located at the southeast corner of Catalina Street and Farallon Drive and is comprised of three separate parcels; Assessor's Parcel Numbers 80G-933-20, 21, and 22-1; International Church Foursquare Gospel (property owner and applicant).

SUMMARY AND RECOMMENDATION

The applicant of the properties at the corner of Catalina Street and Farallon Drive purchased the property in January 2007 and wishes to locate an Assembly use on the property. Currently, Assembly uses are only conditionally permitted in R districts. On March 19, 2007 the City Council approved Zoning Code and Map amendments establishing an Assembly Use Overlay, with 196 properties (in commercial and industrial zones) identified for rezoning with an Assembly Use Overlay. The Assembly Use Overlay allows Assembly uses with approval of a conditional use permit. The Zoning Code and Map amendments will be effective May 1st. The project site in question was not identified for the Assembly Use overlay designation, so the applicant is requesting that their property be considered for rezoning with the Assembly Use Overlay.

Based upon the General Plan policies and Zoning Code regulations that were the basis for the Assembly Use Overlay criteria, and also based on the potential public health and safety hazard to human populations on-site, staff recommends that the Planning Commission deny the application for a rezone of the properties with the Assembly Use Overlay. Staff notes that an action of denial by the Planning Commission is final (does not require concurrence by the City Council), and that the denial may be appealed to the City Council. Staff notes that an action of denial by the Planning Commission is final (does not require concurrence by the City Council), and that the denial may be appealed to the City Council.

APPLICANT'S SUPPORTING STATEMENT

See attached.

BACKGROUND

Faith Fellowship Church (FFC) recently purchased the property at 14600 Catalina (formerly occupied by MDL). On May 18, 2006, staff received an application from FFC requesting a Zoning Code amendment to conditionally permit Assembly uses in Industrial Limited (IL) zones, and to rezone their property from Industrial Professional (IP) to IL (thus setting up the possibility for review of a use permit for an assembly use at the 14600 Catalina site).

Currently, the Zoning Code conditionally permits Religious Assembly uses in R districts, and Faith Fellowship's current location at 577 Manor is zoned RS (PD), Residential Single-Family, Planned Development Overlay District.

A joint worksession with the Board of Zoning Adjustments and Planning Commission was held on October 19. Based upon policy and criteria set forth in the General Plan, staff presented two options for consideration: 1) Amend the Zoning Code to allow Assembly Uses as conditionally permitted in the IL zone; and 2) Apply an Assembly Use Overlay to identified areas. The direction given by the Board and Commission was for staff to move forward with consideration of Option 2. Subsequent to the joint work session, this option was presented to several advisory committees, including the West San Leandro/MacArthur Boulevard Redevelopment Area Advisory Committee, the Chamber of Commerce Government Affairs Committee, and the Joint Redevelopment Area Advisory Committee. At the December 7, 2006 Board of Zoning Adjustments meeting, the refined proposal for an Assembly Use Overlay was presented to the Board for comment. On February 22, 2007 the Planning Commission recommended approval of the proposed Zoning Code and Map amendments. On March 19, the City Council approved Zoning Code and Map amendments related to formation of an Assembly Use Overlay, and rezoned 196 properties (in commercial and industrial districts) that met the Overlay criteria with the Assembly Use (-AU) overlay. These changes will become effective May 1.

At the time of the February Planning Commission meeting, staff recommended to the applicant that once the Zoning Code and Map amendments were approved by Council, that they revise their application, to ask to be included in the newly created Assembly Use Overlay.

STAFF ANALYSIS

Assembly Use Overlay

In evaluating the policy issue of expanding the locations where assembly uses could locate in the City, staff notes that analyzing this matter raises larger General Plan policy issues. Staff looked at the following overriding General Plan Policies for guidance:

- ▶ "The areas most suitable for conversion to non-industrial uses are those located adjacent to existing housing, or in areas which lack the amenities to meet the needs of modern

industry. Such areas exist along San Leandro Boulevard, Alvarado Street, and Marina Boulevard” (Page 3-52 of the General Plan);

- ▶ General Plan Policy 10.04 *Industrial Sanctuary* – Protect the City’s major industrial areas from encroachment by uses that are potentially incompatible with existing viable industrial activities, or which may inhibit the ability of industry to operate effectively; and
- ▶ General Plan Policy 33.04 *Separation from Sensitive Uses* – Provide adequate and safe separation between areas where hazardous materials are present and sensitive uses such as schools, residences and public facilities.

The following General Plan policies were also considered:

- ▶ Policy 7.09 – Build upon the locational strengths and transportation features of West San Leandro to support the area’s continued development as a major industrial, technology, and office employment center. In accordance with the West San Leandro Plan, limit the encroachment of incompatible residential and retail uses into the area, and promote additional development and redevelopment with manufacturing, technology, warehouse and distribution, office/flex, and similar uses.
- ▶ Policy 7.10 – Facilitate the gradual transition of the South-of-Marina (SOMAR) area into a cohesive light industrial district characterized by light manufacturing, office/flex, research and development, bio-medical, e-commerce, and similar uses, along with complementary business services and employee amenities.
- ▶ Policy 13.01 – Ensure that future land use development decisions are in balance with the capacity of the City’s transportation system.

In addition, Article 1 of the Zoning Code stipulates that the broad purpose of the Zoning Code is to protect and promote the public health, safety, and general welfare, and to implement the policies of the City of San Leandro General Plan. More specifically, the Zoning Code is intended to:

- ▶ Provide a precise guide for the physical development of the City in accord with the policies of the General Plan;
- ▶ Preserve the character and quality of residential neighborhoods and commercial and industrial areas consistent with the character of the development districts of the City;
- ▶ Promote the economic stability of existing land uses that are consistent with the development policies of the General Plan and protect them from intrusions by inharmonious or harmful land uses;

Article 7 – Industrial District indicates the following specific purposes:

- ▶ Provide appropriately located areas consistent with the General Plan for a broad range of manufacturing, distribution and storage, and service areas;
- ▶ Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding communities;
- ▶ Provide a suitable environment for various types of industrial uses, and protect them from the adverse impacts of inharmonious uses;

Based on General Plan policies such as those noted above, area specific policies and plans, and Zoning Code purposes, the following criteria were developed for evaluating appropriate locations for assembly uses, with the express objective of expanding the opportunities for assembly uses beyond the residential zoning districts:

- *Site is not located along a major commercial corridor* (identified as E. 14th Street and Marina Boulevard between San Leandro Boulevard and Merced Street);
- *Site is not located within the following General Plan Focus Areas: Downtown, Bayfair, Marina Blvd/SOMAR, or West San Leandro* (each of these Focus Areas is governed by one or more of the following, which governs future development – special study/guidelines, special overlay district, or location within a redevelopment area);
- *Site is not located in a regional-serving retail area* (identified as Greenhouse Marketplace, Westgate, Marina Square, and 'old' Target site);
- *Site is not located inside the ½-mile study area identified for the Downtown Transit-Oriented Development (TOD) Strategy;*
- *Site abuts or is within ¼ mile of an arterial street* (as identified in the Circulation Element of the General Plan);
- *Site is not located in a Residential Zone* (Assembly uses are already conditionally permitted in residential zones, so would not produce new areas for assembly uses to locate if considered);
- *Site is not considered public land, and is not zoned Public Service (PS), Open Space (OS), or Commercial Recreation (CR); property is not owned by an Exempt Public Agency, or leased/owned by a public utility* (these areas represent properties and uses that are unlikely to change);
- *Overlay Area must allow a contiguous area greater than or equal to two acres.* (This figure was derived from research indicating that large assembly uses require a minimum 2-acre site to accommodate bigger building size and to allow for adequate on-site parking.)

After inputting General Plan policy and Zoning Code criteria, several potential overlay areas, located throughout the City, were derived where staff recommended assembly uses could be conditionally permitted. This was accomplished via a Zoning Code text amendment to define the Assembly Use Overlay and then a Zoning Map amendment designating all of the applicable areas with the new Assembly Use Overlay, both of which were approved by the City Council on March 19 and become effective May 1. A total of 196 properties, encompassing approximately 221.1 acres, will be rezoned with the Assembly Use overlay.

The General Plan and the goals and policies contained within it provide a framework for the City's Zoning Code. The General Plan is a legal document and land use decisions, including rezones, must be consistent with the Plan. Staff believes that rezoning the subject site with the Assembly Use Overlay would not be consistent with several policies contained in the General Plan.

The properties to be rezoned with the Assembly Use Overlay met all of the General Plan and Zoning Code criteria indicated above. The project site in question does not meet two of the criteria: 1) the property is located within one of the identified General Plan Focus Areas; and 2) the property does not abut or is not located within ¼ mile of an arterial. During the analysis of the criteria, staff initially looked at sites in terms of how many of the criteria were met, but soon came to the conclusion that there was no logical or non-arbitrary way to determine, for example, that a site that met four out of eight of the criteria wouldn't make the overlay list, but a site that met five out of eight criteria did make the list. It should also be noted that when the data was put into the computer to be analyzed, there was no direction given that certain sites should or should not be indicated for the overlay. The inclusion/exclusion in the overlay is based solely on the criteria data indicated above.

Public Health & Safety

The subject site and properties to the immediate west and south are zoned Industrial Park (IP). Zoning for properties immediately to the east and north are zoned Industrial General (IG), with Industrial Limited (IL) zoning located further to the west and north. Article 7 of the Zoning Code indicates that IL properties are typically low- to moderate-intensity industrial uses capable of being located adjacent to residential areas, and can include commercial services and light manufacturing. Properties zoned IP are intended for development of high technology, R&D, and limited industrial activities within a landscaped setting. Small warehousing and distribution, industrial office centers, and certain types of specified retail uses can be found in IP zones. The IG zone is the broadest industrial zone within the city, and is intended for the 'heaviest' industrial uses, including the production of goods, manufacturing of products from raw materials, bulk storage, chemical manufacturing or processing, laundry/dry cleaning plants, auto dismantling, oil/gas refining, manufacture of stonework/concrete products, and power generation. IG zoning also accommodates those businesses requiring rail traffic.

Based upon information provided by the City's Environmental Services Division, within 500 feet of the property site there are eight businesses which operate under Hazardous Materials Business Plans (HMBPs). Hazard classifications for these eight businesses include: combustible liquid, flammable liquid, oxidizer, corrosive, and miscellaneous hazardous material. The quantity of

classified hazardous materials ranges from less than 500 pounds/55 gallons/2,200 cubic feet (Range 1), up to 5,000 pounds/550 gallons/22,000 cubic feet (Range 3). One of these businesses is also classified as a 'small quantity generator', indicating that more than 27 gallons or 220 pounds, but less than 270 gallons or 2,200 pounds of hazardous waste per month is generated.

Moving out from the site to a quarter mile, there are an additional 13 businesses with active HMBPs. Hazard classifications for these 13 additional businesses include: flammable gas, corrosive, flammable liquid, combustible liquid, non-flammable gas, oxidizer, and miscellaneous hazardous material. The quantity of classified hazardous materials for these businesses ranges from less than 500 pounds/55 gallons/2,200 cubic feet (Range 1), up to greater than or equal to 500,000 pounds/55,000 gallons, or 2,000,000 cubic feet (Range 5). Three of these businesses are considered federal facilities (Range 3 or higher), which require yearly reporting due to the quantities of materials on-site.

The City's industrial zones are designed to and do in fact accommodate materials and activities that pose at least a potential hazard to human populations. The presence, and the potential future presence, of hazardous materials and activities in the vicinity of the project site and the intended assembly use, renders it inappropriate for rezoning with the Assembly Use Overlay.

ENVIRONMENTAL REVIEW

In anticipation of the applicant's desire to revise their application to have their property rezoned with the Assembly Use Overlay, staff included the Catalina Street properties in the Negative Declaration that was prepared for the Assembly Use Overlay. This document had the required 20-day public review period (February 1-20) and was adopted by the City Council on March 19. No further environmental review is required.

PUBLIC OUTREACH

Legal requirements for notification of this meeting included posting of the meeting agenda at City Hall a minimum of 72 hours in advance of the meeting date. In addition, a legal ad was placed in the Daily Review and notices for the hearing were sent to all businesses and property owners within a 300-foot radius of the project site. Notices were posted on the property and on telephone poles or light poles within the 300-foot radius. In addition, courtesy notices were sent to the following homeowners associations: Marina Faire, Marina Gardens, Marina Seagate, Marina Vista, Bonaire, and Washington/Manor. As of the writing of this staff report, one phone call had been received by staff, from a nearby homeowner, who was not in favor of the rezone. She cited concerns over increased traffic and over-flow parking into the neighborhood, associated with the assembly use.

RECOMMENDATION

Based upon the General Plan policies and Zoning Code regulations that were the basis for the Assembly Use Overlay criteria, and also based on the potential public health and safety hazard to human populations on-site, staff recommends that the Planning Commission deny the application for a rezone of the properties with the Assembly Use Overlay. Staff notes that an action of denial

by the Planning Commission is final (does not require concurrence by the City Council), and that the denial may be appealed to the City Council.

Staff believes that denial of the requested rezone for the property does not place a substantial burden on the religious exercise of the applicant, in that the applicant's existing site remains available for assembly uses. Further, with the recent changes to the Zoning Code to establish an Assembly Use Overlay district, 196 additional properties within the City will now be available for consideration of a conditional use permit for assembly uses. The creation of the Assembly Use Overlay creates added opportunities for assembly uses to locate, over what is currently permitted. In addition, staff believes that denial of the rezone would advance the City's compelling interest two-fold: in safeguarding the congregants from exposure to potentially adverse health and safety impacts of surrounding industrial uses; and maintaining adherence to the policies provided in the General Plan, which provided the basis for development of the Assembly Use overlay criteria.

In recommending this denial, staff believes that there is no less restrictive means (i.e. no means short of outright denial of the rezone) that would further the City's interest in safeguarding the health and safety of the future congregants and the City's interests that led to formation of the Assembly Use overlay. In support of this conclusion, it is anticipated that any future conditions of approval that would be placed on a conditional use permit issued for the proposed assembly use (last entitlement required if rezone is approved), would not effectively ensure the health and safety of the congregants. For the formation of the Assembly Use overlay, the City cannot, by some less restrictive alternative to denial, change the facts that make the property inconsistent with the criteria formulated for establishment of the Assembly Use overlay designation.

If the Planning Commission can make findings for approval of the rezone, staff recommends that the item be continued to the next scheduled Planning Commission meeting, to allow staff time to prepare findings for approval.

ATTACHMENTS

Vicinity Map
Applicant's Supporting Statement
Recommended Findings for Denial
Correspondence



City of San Leandro
Planning Department
attention: Mr Luke Simms

RE: Faith Fellowship Church
Purchase of Building at
14600 Catalina, S L

Dear Mr Simms,

May, 11th, 2006

Thank you for your time concerning our zoning map amendment request.

We understand that we will be on the agenda for the industrial relations committee meeting which will meet on June the eighth, 2006. Further meetings are scheduled for June twenty second, 2006, and also July the seventeenth, 2006. The reason for these meetings, is to amend the master zoning map so that we may purchase and occupy the single level office building at 14600 Catalina st, in San Leandro, with the intent to use the building as a house of worship, and other related ministry and administrative uses.

We have out grown the facility we are at currently, and along with that, we have a grossly inadequate parking situation. It is our desire to stay relatively close to the community we serve, and also relieve the over crowded conditions we currently endure. The new property has plenty of parking, and ample street parking on Catalina.

We feel that the four hours we spend on Sunday at the new proposed location will not negatively effect the current traffic flow that exists. By leaving the current facility, the traffic and parking problem will go away.

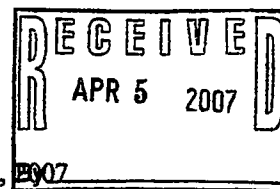
We look forward to a positive result from the meetings which are upcoming, and we thank you in advance for your approval.

Thank you

Sincerely, Pastor Gary Mortara

Jesus Christ: Saviour, Healer, Baptizer, Coming King

577 Manor Boulevard • San Leandro, CA 94579 • (510) 357-5723 • www.faith-fellowship.us



TO: Planning Commission, City of San Leandro
City Council, City of San Leandro

April 2, 2007

We understand that Faith Fellowship Church has purchased an industrial building on 14600 Catalina Avenue (46,080 sq. ft., 3-1/2 acres) to relocate from its current site on Manor Blvd., which they have apparently outgrown. This church surveyed some of the neighboring industrial property owners about their relocation to this area. However, none of the neighborhood homeowner associations or residents have been contacted.

As residents who live on Doolittle Drive and Belvedere Avenue near this industrial building, we are very concerned about the negative impacts to our neighborhood and to the City of San Leandro. Church activities occur Sunday through Friday, mornings and/or evenings, with the greatest number of members, 1,500+ attending Sunday services and 400-500 attending a Wednesday night bible study and family dinner. Some issues of concern are:

1. **Traffic.** Will there be 100's of automobiles on Sunday and Wednesday each week traveling down Doolittle Drive to turn left at the stop (no stop light) at Farallon to access Catalina? Additionally, in the past, the dead end of Doolittle Drive was used as a turnaround by trucks and some autos to avoid the stop and then make a right turn on Farallon. To avoid long lines at the stop, one could imagine many church attendees doing the same maneuver. The City posted signs that trucks could only access the dead end for delivery.

This volume of traffic will cause congestion, noise and pollution to our neighborhood. What about residents of Marina Faire who attempt to exit from Bermuda Avenue onto Doolittle, which currently can be challenging? What about the volume of traffic on other streets, such as Fairway, Marina?

2. **Parking.** Currently, residents and business owners near the Manor church location have on-going parking issues with the church members. We understand that City representatives have had to mediate on behalf of the residents and business owners. With 1500+ members, we can also anticipate a spillover into our neighborhood and on-going parking issues.
3. **Zoning and Tax Implications.** The church purchased this industrially zoned building without permission for church assembly usage. Will this church or other churches be allowed to violate the zoning codes, operating and expanding in inappropriate areas, thus potentially causing disruptions to neighborhoods and depriving the city of needed tax revenue?

Since the church has already outgrown its present location on Manor Blvd. to expand to 1,500+ members, there is the potential to expand its membership further, exacerbating the issues stated above. We urge the Planning Commission and the City Council to deny permission for the industrial property on Catalina to be utilized for church assembly usage. Thank you for your consideration.

Ed Jaramillo

Ed Jaramillo, President
Marina West Homeowners Assn.
Doolittle Drive/Belvedere Avenue

Kathy Sanchez

Kathy Sanchez, President
Marina Garden Homeowners Assn.
Doolittle Drive/Belvedere Avenue

March 3, 2007

Honorable Mayor Santos:

I am writing this letter in support of rezoning for religious assembly use the building owned by Faith Fellowship Worship Center located at 14600 Catalina Street.

I have been a resident of San Leandro for over 35 years. I graduated from Pacific High School. I have lived in Washington Manor for 20 years. I worked as a Substitute Teacher for San Leandro and San Lorenzo Unified School Districts. I also helped to start the AWOL after school program at John Muir Middle School. I have been involved with Washington Manor Junior League, Crusaders Football, Washington Manor Elementary School, and Arroyo High School Football. I have been a member of Faith Fellowship Worship Center for 6 years. I have worked in the community for over 10 years partnering with elected County Officials and local organizations to provide social services to needy families.

I have seen many changes in our beloved city from the family oriented 60's to our current influx of transient residents, rise in crime and lack of academic support. These recent changes have had a negative impact on San Leandro's ability to draw and keep residents who are committed to building a safe and friendly community. Many residents who have been here for generations have been relocating "over the hill" to the communities of Pleasanton, San Ramon and Dublin. They are choosing these communities because they provide a sense of safety, quality programming, high end business and exceptional school districts. We are losing dedicated community members because we do not have enough infrastructures to attract, sustain, build and change the face of the community of San Leandro.

According to the San Leandro Times at your first State of the City address you spoke about diversity, economic development, redevelopment projects, affordable housing, and public safety. You stated your goals in San Leandro were to expand our cultural, social and economic values and to keep San Leandro a strong community. As we turn the corner and begin to build on your vision for the future of San Leandro we need to take into consideration those existing organizations that for years have been committed to attaining these goals.

Faith Fellowship Worship Center is one of those unique diverse organizations, a rare jewel in San Leandro. The church serves the local community with dynamic faith based programming that attracts, encourages and builds community, self esteem, and self sufficiency. The church is attended by over 1,400 local residents on a regular basis. The Youth Ministry serves 300 local youth and is one of the fastest growing ministries for young people in the Bay Area.

Faith Fellowship Worship Center continues to grow and expand due to quality faith based programs and dedication of service to the surrounding community. Programs like Celebrate Recovery a renowned ministry for people struggling with addictions and compulsions is attended by 69 local residents. Weekly Bible studies are offered to women who have been incarcerated and are in local transitional programs for re-entry into the community. Faith based counseling, life skills training, workshops, marriage seminars, health and wellness information for all ages,

are well attended and encourage making sound life choices. These ministries and support programs provide imperative tools and skills needed by many to become productive community members. We have far too few organizations in San Leandro that provide an array of services such as these.

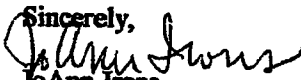
Most importantly the youth programs offered are exceptional and have been recognized for the positive impact they have had on the local youth. This ministry will be able to further expand by providing an after school homework program complete with a computer lab for local youth to get academic support in a safe and friendly environment. These activities are crucial for this at risk group that has currently seen a great increase in crime, especially violent crime. Providing a space for them to "hang out" will lessen the temptation to be out on the streets unsupervised. In addition this future generation of San Leandro will have skills and tools to make better life choices that will greatly impact their lives and the City of San Leandro.

In addition Faith Fellowship Worship Center continues to bring attention and increasing revenue to the City of San Leandro by broadcasting services weekly on a local TV station and frequenting local business. Additional businesses will see increases in patronage with this intended relocation. Businesses such as Denny's Restaurant, La Pinata, Kentucky Fried Chicken, Marina Square, Marina Faire, Porky's Restaurant, Mama Lupes, and Super Burger, to name a few, will see an increase in patrons because they are in the direct route that is taken to and from the new Church location.

The expansion and continual growth of Faith Fellowship Worship Center sparked the purchase and proposed move to 14600 Catalina Street. Rezoning of this building and moving of the church will provide the much needed space for parking, programming and accommodation of over 1,400 attendees. The move will also alleviate the continual intrusion and city complaints of the neighboring residents because the church has outgrown the current location at 577 Manor Blvd.

Faith Fellowship Worship Center has consistently worked toward the goal of expanding cultural, social and economic values and to keep San Leandro a strong community. The city of San Leandro would greatly benefit from your support and approval of rezoning to allow for the Faith Fellowship Worship Center move. Please reconsider your decisions and grant this request for Faith Fellowship Worship Center's future and the future of the City of San Leandro.

Sincerely,



JoAnn Irons

Cc: John Jermanis, City Manager
Michael Gregory, Council Member District 1
Surlene Grant, Council Member, District 2
Diana Souza, Council Member, District 3
Joyce Starosciak, Council Member District 4
Bill Stephens, Council Member District 5
Pastor Gary Mortara, Faith Fellowship Worship Center

Case 3:07-cv-03605 Document 132-21 Filed 08/20/08 Page 23 of 53



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Ron J. Boehm
CEO/Owner

RON J. BOEHM
Owner

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since 1975."

March 2, 2007

Hanson Horn
Community Development Director
835 E. 14th St.
San Leandro, CA 94577

Dear Mr. Horn:

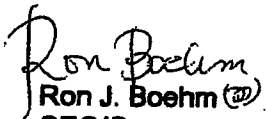
TBS Couriers is a courier company covering the 10 Western states, serving 2200 cities. Our Northern California Regional Hub and Operations Center is located at 1132 Beecher Street, San Leandro, CA.

Many of our employees live in the San Leandro area. This letter is in reference to Faith Fellowship who is attempting to do a zone change, moving our church from Manor Blvd. to Catalina St.

We wish to declare our support for this zone change. My wife and I and many of our employees are active in Faith Fellowship on Manor Blvd. We feel Faith Fellowship has a very beneficial influence in the greater San Leandro area.

If you have any questions, please feel free to call me at 510-568-5200.

Sincerely,


Ron J. Boehm
CEO/Owner
TBS Couriers, Inc.

RJB/vlc

Cc: Pastor Gary Mortara

COMM. DEVEL. DEPT.

MAR 06 2007

SAN LEANDRO
RECEIVED

To whom it may concern,

As a business here in San Leandro, we accept Faith Fellowship Foursquare Church as a part of our business community. We appreciate their need for a larger facility and adequate parking. We understand their only time of any significant traffic is on Sunday mornings and occasionally after hours in the evening. This will not negatively affect us. They have offered their parking lot to our employees anytime during the week. We're not aware of any negative impact they would have on this business site.

Sincerely,



Richard Spratling
Kennerley-Spratling Inc.
2116 Farallon Dr
San Leandro CA 94577



Dave Clare
Challenge Dairy Products
14970 Catalina Street
San Leandro, CA 94577

10/25/06

Dear Dave,

My name is Gary Mortara, I am the Senior Pastor at Faith Fellowship Worship Center on Manor Blvd in San Leandro. I had the pleasure of briefly meeting with you about a month ago and you were so gracious with your time to talk with me and I appreciated it. We will soon be your neighbors. As you know we are purchasing the building next to you at 14600 Catalina Street. You and your employees are more than welcome to park at our facility throughout the week, because, we only use the building after hours on week nights and on Sunday mornings for few hours. This is our way of saying to you that we want to be good neighbors with you and the community. We are almost finished with escrow and are now starting the interior plans of the building. We could use your help in a small but very important way. We need your signature on this letter to the City confirming that it is okay with you for a church to move into the area. I cannot tell you how much that would assist us in this endeavor.

So, if you could please sign this letter. I will fax it over to the City. This would be greatly appreciated. If you would like to talk to me personally, my office and cell phone numbers are as follows:

Bus. (510) 357-5723 Cell (510) 773-8513

Thank you so much for your time and assistance in this matter, if there is anything I can do for you, please let me know.

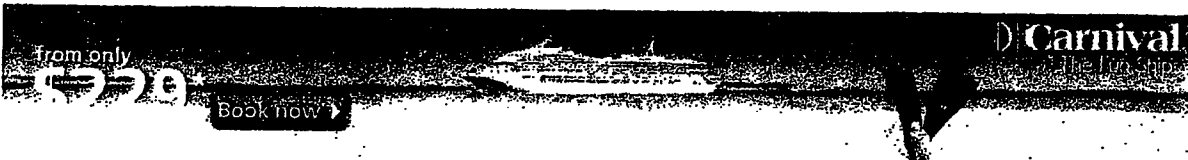
Sincerely

Gary Mortara
Senior Pastor
Faith Fellowship Worship Center

Jesus Christ: Saviour, Healer, Baptizer, Coming King

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Case 3:07-cv-03605 Document 132-21 Filed 08/2008 Page 26 of 53

[Yahoo!](#) [My Yahoo!](#) [Mail](#)Search: [Web Search](#)**YAHOO! MAIL**Welcome, [pastorgarymortara](#)
[\[Sign Out\]](#) [\[My Account\]](#)[Mail Home](#) - [Mail Tutorials](#) - [Help](#)[Mail](#) [Addresses](#) [Calendar](#) [Notepad](#)[Mail For Mobile](#) - [Upgrades](#) - [Options](#)[Check Mail](#)[Compose](#)[Search Mail](#)[Search the Web](#)Platinum card
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credit score: \\$0](#)[Earn a degree
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fast as 1 year](#)[Previous](#) | [Next](#) | [Back to Messages](#)[Delete](#)[Reply](#)[Forward](#)[Spam](#)[Move...](#)This message is not flagged. [[Flag Message](#) - [Mark as Unread](#)][Printable View](#)**Subject:** New Location**Date:** Thu, 19 Oct 2006 16:17:10 -0700**From:** "Hess, Scott" <SHess@ksautomotive.com> [Add to Address Book](#) [Add Mobile Alert](#)**To:** pastorgarymortara@yahoo.com**CC:** "Hess, Scott" <SHess@ksautomotive.com>

Gary,
It was really nice to meet you last month. I just wanted to touch base with you in regard to your new proposed location on Catalina and Farallon in San Leandro. If this location works out for you we would be your new neighbors on both the South and East side of your building (14801 Catalina St. and 2116 Farallon Dr). We feel that you would be positive addition to this business park. We look forward to seeing you in the area soon. If you have any questions feel free to give me a call.
Thanks,
Scott Hess
Operations Manager
KS Automotive
Desk 510-297-5797
Cell 510-774-5525

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what is his city tax contribution?

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 1 of 9

Item 6: Public Hearings

(a) Matter of PLN2006-00049; Rezone and Zoning Map Amendment to rezone the properties identified as 14600 and 14850 Catalina Street from Industrial Park (IP) to Industrial Park, Assembly Use Overlay (IP-AU). No physical changes to the properties are proposed as part of this entitlement. The project site is located at the southeast corner of Catalina Street and Farallon Drive and is comprised of three separate parcels; Assessor's Parcel Numbers 80G-933-20, 21, and 22-1; International Church Foursquare Gospel (property owner and applicant). [Pollart]

Environmental Review: A Negative Declaration covering the proposed Assembly Use Overlay properties had its 20-day public review period from February 1-20, 2007, and was adopted by the City Council on March 19. In anticipation of the applicant's desire to have his properties rezoned with the Assembly Use Overlay, staff included the Catalina Street properties in the analysis of the Negative Declaration. No further environmental review is required.

Secretary Pollart explained that the applicant, also known as Faith Fellowship Foursquare Gospel Church, purchased three parcels at 14600/14850 Catalina, at the southeast corner of Farallon, for assembly use, and wants the City to rezone the property from Industrial Park (IP) to IP-AU (Assembly Use Overlay) and amend the Zoning Map accordingly. No physical changes are involved in the proposal. In May 2006, the applicant had requested modification of the Zoning Code to include Assembly Uses as conditionally permitted in IL zones, and to rezone the property to IL. In October 2006, following a joint Work Session of the Board of Zoning Adjustments and the Planning Commission, staff developed a proposal for an Assembly Use Overlay in identified areas. City Council approved amendments creating the AU Overlay District in March 2007; it becomes effective in early May 2007. The overlay encompasses 196 sites on 221 acres of commercial and industrial properties. The sites were selected using eight criteria based on General Plan policies that provide a framework for Zoning Code policies, including not being located within a regional-serving retail area and abutting or being within a quarter mile of an arterial to ensure adequacy of the street system to accommodate assembly use. According to Planning Department Staff, the applicant's property fails to meet those two criteria, in that the property is located within the West San Leandro General Plan Focus Area, and has no arterial within the quarter-mile radius. Furthermore, staff analysis suggested that the presence of hazardous materials and activities in the vicinity of the church's site render it inappropriate for rezoning. In addition to communications included in the Commissioners' packets, letters concerning the matter came from Peter MacDonald (an applicant representative), Betty Bailey and Mr. & Mrs. Sharma, a Marina Faire HOA representative and Belvedere residents, respectively, who oppose the rezone. In recommending denial of the application to rezone, staff based the recommendation on the fact that the site does not meet all of the AU Overlay District criteria and that land use decisions, including rezones, must be consistent with the General Plan. Secretary Pollart noted that Planning Commission denial would be final but may be appealed to City Council within 15 calendar days. Approval of a rezone would require preparation of Findings for Approval, with action at a subsequent Planning Commission meeting.

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 2 of 9

(recommendation to City Council). She also noted that anticipating approval of the rezone application, the applicant has filed a Conditional Use Permit application, which is currently under staff review.

Acting Chair/Vice Chair Reed invited questions from the Commissioners.

Commissioner Abero requested clarification of the quarter-mile area on the map designating nearby arterials, which **Secretary Pollart** provided.

Commissioner Collier commented that she is concerned that Faith Fellowship has been told all along about concerns over their current location in regards to parking and weekend operations. She also noted that neighbors have been complaining regularly to the City Council and Planning Commission and others. In Commissioner Collier's opinion, the church has done everything they could to relieve that situation, but it has not been enough. The City approved that site in late '90s, when the congregation was small, but complaints about parking began emerging not long afterward, including complaints about when, where and how long congregants were parking, and how much traffic they brought to a tight corner. Now, she said, they want to move to an area with virtually no weekend traffic, and the site meets six out of eight criteria. Collier views that area as one of the best places to put a church because the church would be the only traffic-generator, the site is surrounded by parking lots for businesses that are closed on weekends. Thus, even if onsite and street parking were insufficient, there is a lot of parking around, and businesses already have agreed to do parking swaps with the church. The back-and-forth and conversations over the last year or so have led the church on a "garden path with no end." She hopes that the City did not have this end - denial - in mind. She believes that meeting six of eight compliance points is "pretty darn good."

Commissioner Nadine referenced a communication from Mr. MacDonald's office. She's hearing that the peak times are Sundays and after hours when no commercial activity is taking place in the industrial area. However, the architectural design she saw shows 10 offices and at least 12 classrooms. She asked whether this was being set up for later modification into perhaps a private school or day care.

Secretary Pollart said that would be an issue discussed in conjunction with the application for a use permit. However, she added, at this time church officials have indicated there is no proposal for a school. If they were to get a use permit approval, and later decided to have a school, they would have to come back to modify the use permit for a school use.

Acting Chair/Vice Chair Reed invited the applicants to begin their three-part presentation.

Gary Mortara, senior pastor, asked those in the audience to stand to show their support of the application; most of those present came to their feet. He said the supporters would not speak, and would handle themselves in an orderly fashion. He said the Manor Boulevard neighbors like the church - except for about three hours on Sunday mornings, due to the parking problems and traffic generated by the three services now held to accommodate the large congregation. The restaurant across the street has even threatened a lawsuit. The exponential growth of the church, he said, is a wonderful thing, but they realize that it presents a problem. They began looking for properties, and found the one on Catalina. Talking with the staff and understanding that the proposal would probably be workable, they followed staff's advice. We were canceled in June

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 3 of 9

and July, he said, adding that it's dark in August and they were canceled in September. We came en masse in October to plead their case, and finally came before the BZA in November. He said they were canceled again for the next three months, and then the issue came as an overlay proposal, which the City Council last month. The only problem, he said, we don't fit into the criteria, which were created around their building, not with their building in mind. He said that's he is hurt by the staff recommendation for denial, and said it does not seem fair. Pastor Mortara added several points about how Faith Fellowship serves the community with a number of different free ministries – drug and alcohol rehabilitation, a youth program that serves hundreds of boys and girls, marriage counseling, family counseling, feeding programs, single parents. We do it because we're here to serve the community and love it, and don't ask the City for anything, he said. He added that the length of time involved in pursuit of zoning approval has been arduous and costly – more than \$40,000 per month for each delay and postponement. The issue of the health hazards on the site, he said, has just come up for the first time. Had that been stated as a potential problem at the start, he said the church probably would not have purchased the building. He said there are more than 1,000 employees in area, working in those companies. And now it's a health hazard?" he asked. Halfway through this process, he stated, City Manager John Jermanis personally told him that if he were to get letters of acceptance by other businesses in the area, it would greatly favor the church. Pastor Mortara said that he did, obtaining letters from Richard Spratling (Kennerley-Spratling), Scott Hess (KS Automotive), Dave Clare (Challenge Dairy Products), Richard [last name not audible on tape] (NCCI), and Steve Sodeberg (Otis Spunkmeyer). According to Pastor Mortara, the fire captain described the site as a perfect place for a church. He concluded by saying, "We have followed the due process. I have done everything that has been asked of me. And now the staff sends a letter saying we want you to deny them... I'm appealing to you tonight on behalf of the thousands of people that come to our church... That property fits us perfectly... It's a win-win for everybody... We need your approval."

Peter MacDonald of Pleasanton, a former urban planner and former city attorney who now practices land use law, said he would address the nitty-gritty zoning issues. The issue, he said, isn't whether the site will work for the church, because he described it as a "fabulous" location. Rather, he said, the issue is whether the zoning is in the City's best interest. San Leandro wants land uses that fit together so that it is a functional community for people to live and work. The City needs places for churches, because a substantial number of residents participate in religious communities. The problem is more acute for large congregations, and it is important as a community member for a church to recognize when it has outgrown its facility. In the current location, when church services are held, church-goers fill every available parking place for blocks around its Manor Boulevard site. It is not fair, he said, for a large congregation to be forced into that residential setting. Mr. MacDonald pointed out on a map the hundreds of locations from which residents signed a petition asking the City to let the church move to the location the church selected. Recognizing the problem, he credited the planning staff for creating the AU Overlay District. Had the AU Overlay existed before Faith Fellowship started to search for a new site, they might have found a property on one of the suitable locations. Of the two criteria that staff established for consideration of AU Overlay is proximity to an arterial street to ensure adequate access. However, he said that the City's computer model inaccurately failed to classify Farallon as an arterial. It is identified as such in the General Plan maps, he said, as well as MapQuest. Both show Farallon as an arterial. It was designed and built with extra width and a middle left-turn lane, and Farallon connects nearby to arterials in every direction, including

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 4 of 9

Doolittle, Merced, Wickes, Manor, Lewelling, Marina and the freeways. The issue is whether access to the proposed site is adequate, and he said that arterial access to the Catalina/Farallon property is superb. The second criterion involves the site being in the West San Leandro General Plan Focus Area, the SoMar (South of Marina) area. The driving force, Mr. MacDonald indicated, is the need to preserve high quality light industrial locations, and churches have a long history of coexisting successfully with quality flex office/warehouse developments typical of the SoMar area. He cited examples of churches in light industrial districts in Pleasanton, Concord, Dublin, Livermore and Fremont, all with no serious problems to report. Among the reasons is that the church and industrial activities tend to be symbiotic, with industrial activity peaking weekdays and church activities peaking on weekends and evenings. He likened a church in an industrial area to having a night watchman, with eyes on the street when weekday uses are not present. Also, the church would give industrial users overflow parking during the weekdays when they need it, and churchgoers would have additional nearby parking at the industrial locations evenings and weekends. Jane Jacobs, the great advocate of mixed uses, would support this mix, Mr. MacDonald added. Another potential concern he cited is that churches might preempt too much industrial space, thus constraining the supply of job-creating businesses. But that has not been a problem in other communities. A related concern is the permanent loss of job-creating structures. The General Plan addresses the danger of having retail and residential uses encroaching on industrial areas. But churches only need interior tenant improvements, and can readily convert back to flex office uses, and Mr. MacDonald said he has seen this happen numerous times in Valley Business Park in Pleasanton. As for the safety hazards cited near the property, he said that planners can change an imaginary problem into a real one by prohibiting churches near any businesses that have hazmat plans. That would exclude nearly every area recently approved for AU Overlay if that is the criteria. There would be nowhere for large congregations to go in San Leandro. This application for a rezone, he contended, is consistent with the General Plan because churches and light industrial uses are both harmonious and complementary.

Commissioner Nardine did not think the traffic issue had yet been completely addressed. She inquired about the future plans for the property where the church is currently located.

Pastor Mortara said they plan to sell, and the initial thought is to sell to a church that is nine times smaller. However, at this time, the church is not on the market. He said they also talked to the City about offering the property to a developer to convert to housing to create revenue for the City. He said they are willing to do with it whatever they need to and the City wants them to, but the idea is to put it on the market immediately.

Commissioner Nardine suggested that if another assembly goes in, it doesn't solve the traffic problem.

Pastor Mortara indicated that the average-size church – in the City as well as the country – it's 150 people or fewer. He said Faith Fellowship is an anomaly, somewhat like St. Felicitas, so the odds against that happening again are great. Of the 41 churches in San Leandro, only two have congregations of over 1,000.

Commissioner Nardine said there are three churches on Manor Boulevard – Faith Fellowship, St. Felicitas, and Hope Lutheran. If Faith Fellowship goes to Farallon and Catalina, the nearest exit besides 880 would be the 238 exit off Beatrice, going into Washington Manor. Thus, she

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 5 of 9

says, traffic would increase if yet another church were to go in to Faith Fellowship's current site. From that perspective, she does not see how the traffic issue is being addressed.

Pastor Mortara said Faith Fellowship's new location would generate pass-through traffic on Manor Boulevard, rather than stop-and-go, pulling into driveways and exiting from driveways. In addition, he said that most people would exit at Marina, turn left onto Doolittle, and approach Catalina/Farallon from that direction.

Commissioner Nardine said that one of the church members said an after-school program will be going in.

Pastor Mortara said there is not. What was considered was for members of the church youth group who needed a place to do their homework, they could come by the church instead of being on the street, but that would be at 3:30 or 4 p.m., and they would be out by 5 p.m.

Commissioner Nardine pointed out that that would fall between commercial and industrial and work hours.

Pastor Mortara concurred, and said they could drop the idea. It was just an idea of a way to better serve the community.

Commissioner Nardine said that her concern is that during work hours, it is not particularly safe for children in a commercial/industrial area to be coming and going. She also asked what would happen if the church were to outgrow the new Catalina/Farallon facility.

Pastor Mortara said they could take over the Coliseum.

Commissioner Nardine, alluding to Mr. MacDonald's remark that the traffic/parking situation should not be forced on the Manor area, asked if they are not now planning to force it on the Marina Faire area instead. It's a concern about the size of the Faith Fellowship assembly.

Mr. MacDonald pointed out that the issue is relative impact. The impact in the middle of that industrial area on a Sunday morning or Wednesday evening as a practical matter would be zero. Moving Faith Fellowship would mean an immediate positive impact for the Manor neighborhood, but not a negative impact when it goes into the industrial area with big streets in every direction and nobody around.

Pastor Mortara added that 10 people in the Marina Faire have written letters welcoming Faith Fellowship into the community.

Commissioner Nardine, in preparing for the meeting, indicated that she ran across two cities with similar Assembly Overlay issues, including Sunnysvale and Dixon. She wondered whether staff might see what resolutions came in those situations, what the impact was on the communities, and what sort of modifications may have been made.

Pastor Mortara submitted 200 petitions from neighbors who are not members of the congregation, as well as 1,700 church members.

Commissioner Nardine asked whether the church conducts seminars, and how many attend.

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 6 of 9

Pastor Mortara said he holds seminars on Saturdays, 9 a.m. to 2:30 p.m. twice a year, with attendance ranging from 100 to 350 people.

Acting Chair/Vice Chair Reed invited the third of the speakers to address the Commission.

Paul Gant, President of Safety Compliance Management Inc. explained that there is neither an objective safety problem nor a statutory problem. His background and experience include 15 years in the fire service, working in four jurisdictions as firefighter, paramedic, training officer, battalion chief, fire marshal, and deputy fire chief. In 1992, he became President of his own firm, providing environmental and occupational health and safety training services and consulting services in both private and public sectors across the U.S. His firm also helps businesses comply with various regulatory requirements, including those involving hazardous material storage and hazardous waste handling and disposal. He is a Certified Safety Professional, a Cal/EPA Registered Environmental Assessor, and is also qualified as an expert witness in various states, providing testimony and services on topics of safety, hazardous materials and regulatory compliance. As part of his work with the Faith Fellowship project, he made note of the general conditions of the neighborhood, including a relatively new firehouse across the street from the Catalina Street property. He reviewed correspondence from the City regarding placement of the church in that area. Based on the concerns expressed, he obtained records from the sites that were storing the hazardous materials, and reviewed those records in an attempt to understand the issues outlined in the staff reports. He concluded that the issues should not compel the City to deny the church's request to be sited at the Catalina Street location. This is based on several factors. The presence of a haz-mat business plan (HMBP) or haz-mat management plan does not in itself identify sites that are significantly hazardous. In fact, the HMBP is filed when minimum amounts of hazardous are present at a site; as little as a single 55-gallon drum of oil or 200 cubic feet of gases, less than what would be in a typical welding cart. He said he would not be surprised to drive down the street and find a number of HMBP occupancies near the City Offices on East 14th Street. Further, he said, the filing of an HMPB for a business imposes certain conditions to provide safety programs to effectively manage the hazardous materials that are present in a compliant manner on a daily basis, and dispose of hazardous wastes. These provisions protect employees as well as people in adjacent businesses. He found the hazardous materials present in the neighborhood similar to those found everywhere in the country. These include combustibles such as glycol, an antifreeze solution; oils and lubricants; propane cylinders for forklifts – the same as we use in gas-fired backyard grills; gases such as argon, helium, nitrogen, oxygen, and acetylene, some in very small amounts. While these substances can pose hazards, the various layers of regulations from the California Fire Code to the EPA regulations for storage to Cal-OSHA regulations governing employee health and safety, and to local HMBP programs require effective and safe management of those materials. This is all to protect visitors to the site and the surrounding community as well as employees. There are a couple thousand people in the area now, and the programs in place are protecting them now on a daily basis. Those same programs would also protect the congregants of the assembly during their evening and weekend church services. He concluded by saying that he and his family attend Crosswinds Church, a mega-church in Dublin. It is located in an industrial building in an industrial complex, with a number of his company's clients nearby, clients with greater hazards than those present around the Catalina Street site. He contended that church uses are compatible when the community has a well-established and well-managed program such as San Leandro does, and said it was well within the Planning Commission's discretion to allow the project to move forward.

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 7 of 9

Acting Chair/Vice Chair Reed opened the public hearing, after asking Secretary Pollart to make an announcement about how it would be handled in light of the large crowd.

Secretary Pollart asked for a show of hands of people who wanted to speak on this matter.

Acting Chair/Vice Chair Reed said that each speaker would be allowed a maximum of five minutes each.

Jeff McGallian, 13985 Tahiti Road, represents Faith Fellowship. He said he is a former Board of Zoning Adjustments member, and has made decisions such as this many times. Addressing the issue of traffic, he said it is one of the biggest concerns when putting a new development in. The Davis Street corridor when Wal-Mart and Costco went in created a major issue, but it was a need that required addressing, because it meant a lot of money, and the City took extra measures to make it happen. Traffic is a nightmare there, he acknowledged, but we're living with it because the San Leandro economy requires it. The Catalina/Farallon area has access to 880 via Marina via Doolittle. Catalina leads to Fairway, which leads to Merced, which leads to Marina, which also leads to 880. Pike is also nearby, which leads to Merced to Marina to 880. And Farallon, he added, goes to Doolittle, Catalina, Pike, Merced, Manor and down to Lewelling, which feeds a large network of streets that take overflow and makes easy access in and out. He mentioned traffic around the Coliseum, which affects many people, but it serves a purpose. He said that Faith Fellowship, likewise, serves a purpose, and the traffic impact would be so minimal as to make it a non-issue. On the contrary, he said, it would enhance the area and bring more people in to patronize the restaurants and increase exposure for Marina Faire. He described the proposed rezone as a "plus-plus," a "win-win," with the increased traffic actually an enhancement in this situation.

Kathy Sanchez, 14723 Doolittle Drive, is President of the Marina Garden Homeowners Association, located at Doolittle Drive and Belvedere Avenue. She favors denial of the application for rezone. She referenced a letter in the Commissioners' packets that she and Ed Jaramillo, President of the Marina West Homeowners Association, sent to the Planning Commission and the City Council. The volume of traffic generated by the 1,500-plus members of the congregation would greatly impact their neighborhood, she said. In her area, Doolittle Drive is two lanes, with the speed limit just increased to 40 mph, which she does not understand because it is residential on her side. It is the direct route to access Catalina via Farallon. There is a STOP sign at Farallon, so it would be constant start-and-stop in the one lane turning left there. Farallon also is near the dead end of Doolittle Drive, which in the past has been used as a turnaround, which also creates problems. Residents on Doolittle Drive and the surrounding neighborhoods would have difficulty entering and exiting their property, in addition to experiencing more noise, congestion and pollution during peak traffic, and from the STOP at Farallon. The church traffic would also hamper access to Doolittle from other streets, such as Belvedere and Bermuda. The church could continue to increase its membership exponentially, which would exacerbate the traffic, congestion, and pollution problems. She said that noise pollution from the airport, truck traffic, industry, the 880 freeway and the railroads, and added that ongoing parking problems are already an issue with residents and business owners at the current church location. She also is concerned that if churches and other tax-exempt organizations take over industrial property not zoned for their use, the City will lose tax revenue and experience additional burdens on its infrastructure and services, with financial deficits made up by all San Leandro residents. Ms. Sanchez pointed out that while Faith Fellowship talked to

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 8 of 9

business owners in the area, no one came to the neighborhood and asked the homeowners about the impacts they would have.

Ed Jaramillo, 2209 Belvedere Avenue, reiterated Ms. Sanchez concerns about traffic and congestion, which are problematic even without the church. Parking is another concern. The building site does not appear to have adequate parking, so church members would park at other private industrial sites nearby, and if those sites decided against allowing church parking, the vehicles will spread into the residential community. He believes this move would just shift the parking problem from the Manor to Marina Faire.

Sharon Collins has lived in the Marina Faire area for 43 years. She does not understand why, if the City is having financial problems, it would consider using property that could produce tax revenue and put in a church instead. She also wonders if this might set a precedent for opening other industrial areas giving way to churches, thus losing more tax money.

With no other speakers coming forward, **Acting Chair/Vice Chair Reed** invited a motion to close the public hearing.

***Motion to Close Public Hearing,
with Proviso That Applicant Returns to Speak
Dlugosh / Collier; 5 Ayes, 0 Noes***

Pastor Mortara said they would work with Marina Faire and whomever necessary to make it feasible for everybody. He emphasized that they will do everything they can to work with the community.

Acting Chair/Vice Chair Reed opened the meeting to Commissioners' discussion.

Commission Nardine returned to the issues of parking and traffic. She appreciates the fact that there is a neighborly agreement between the church and existing business, but that would not be binding if a business were sold, and the new owner might not want church members to park there. Some of those businesses, she noted, do work three shifts. Businesses on Merced, Pike and Wickes were not invited to give input, and she is not sure that they want weekend traffic, which might create a need for additional security and policing.

Commissioner Collier said that she took her children to the area to learn to park and drive, because no one was in the area. She finds it no different now than it was 20 years ago. There is still no one down there on the weekends, not even parking, she said. On a Friday afternoon, she saw about 15 cars parked at about 3:30 p.m. No one was parking on the streets. She takes this route as a shortcut from North San Leandro when she drives to the Manor, because there's no traffic. People probably would come in to the church from Lewelling down Wickes to Farallon and never even hit Doolittle. They also could go from Farallon to Catalina and help revive Marina Faire, which would be delighted to have business any day of the week, because there's no foot traffic and no car traffic at this time. In comparison to Davis Street, she noted, traffic on Doolittle is not a problem. It can be busy, but the traffic moves. In addition, there are many alternate ways to get to the Catalina/Farallon site.

*Draft Excerpt of Minutes
April 12, 2007 Planning Commission Meeting*

Page 9 of 9

Commissioner Dlugosh considered all the arguments, both pro and con, very compelling. If they were the only things to consider, this issue would be a no-brainer. But what it comes back to is what he calls a "spot zone," where you put something in there just because. As he sees it, this is not good planning. Even though he feels empathy and sympathy for arguments made in favor of the rezone, he is reluctant to stray from good planning policy.

Commissioner Abero observed that extensive work and a lot of analysis went into creating the General Plan, which targeted the area in question as a business park. She questions the wisdom of putting a nonconforming use in the middle of a specifically designated area.

Acting Chair/Vice Chair Reed echoed the thought that that this is a tough decision. He agreed that a lot of people worked long and hard on updating the General Plan, examining all the aspects and viewing it as a complete package rather than a piecemeal or shot-in-the-dark approach to planning. Considerable time and input also went into creating the AU Overlay District, to accommodate the needs for assembly uses throughout the City. He is sympathetic to the church's position, but said that it is appropriate to support the staff recommendation for denial. He requested a motion.

Acting Chair/Vice Chair Reed then invited Commissioners to discuss the proposal. There was no further discussion.


Secretary Pollart clarified that denials are final actions of the Planning Commission and do not need forwarding to the City Council.

***Motion to Deny Request
to Rezone 14600-14850 Catalina Street Properties
from IP to IP-AU
Dlugosh / Nardine; 4 Ayes, 1 No – Collier.
Ponder, Wohltmann (excused)
Motion passed***

Acting Chair/Vice Chair Reed commended the Faith Fellowship congregants in the crowd for the way they handled themselves.

MEMORANDUM

TO: Mayor Santos and Council Members

FROM: Debbie Pollart, Planning Manager 

DATE: May 7, 2007

RE: Correspondence Related to PLN2006-00049

At the April 12 Planning Commission meeting, several pieces of correspondence were received:

- Letter from Peter MacDonald, attorney representing the appellant, in favor of rezone;
- Letter from Betty Bailey, President of Marina Faire HOA, opposed to rezone;
- Letter from Mr. & Mrs. Sharma of Belvedere Avenue, opposed to rezone;
- Petitions - Over 160 pages of signatures were submitted (approximately 1,656 total signatures), representing Marina Fair Plaza business owners, the Manor community (with map attached), and members of Faith Fellowship Church. Due to the number of pages, and to limit the use of copying paper, staff has provided a few representative pages of the petitions, which are attached.

LAW OFFICE
PETER MACDONALD
400 MAIN STREET, SUITE 210
PLEASANTON, CALIFORNIA 94566-7371

(925) 462-0191
FAX (925) 462-0404
pmacdonald@macdonaldlaw.net

April 9, 2007

Planning Commission
City of San Leandro
835 East 14th Street
San Leandro, CA 94577

Subject: **Faith Fellowship Application for Assembly Overlay Rezoning
14600 Catalina Street**

Honorable Chair Perras and Members of the Commission,

In March 2006 the Faith Fellowship congregation entered into a purchase agreement to buy a 3.56 acre property at 14600 Catalina Street. The purchase agreement allowed many months for due diligence and processing any necessary City permits.

The site and building at 14600 Catalina Street is ideal for the proposed church use: The 3.56 acre parcel has a 46,080 sq. ft. building and 188 parking spaces, with excellent access to major arterials in every direction. (Site plan, Attachment 1) Faith Fellowship, with a congregation of over 1000 souls, has outgrown its current location in a residential neighborhood. Peak parking on Sunday mornings overflows for blocks around, to the detriment of their residential neighbors.

Church elders immediately met with the City Manager and Planning Director to ask direction on how to proceed. The City officials told the Church that the industrial districts did not allow churches. Several similar assembly uses are permitted by conditional use permit in industrial districts such as commercial recreation and entertainment. Following direction from City staff, Faith Fellowship applied way last May 18 for rezoning to the IL (Industrial Limited) district so a conditional use permit could be processed to approve the proposed Church use.

City staff realized that limiting churches to residential zones had the effect of prohibiting large congregations like Faith Fellowship from locating in San Leandro, in violation of good planning practice and Federal law. The City then began an 11 month process to create an assembly overlay (AO) district. The AO District has now been adopted, but does not include the applicant's property. While the City process dragged on, after 9 months in contract, Faith Fellowship was forced to close escrow on 14600 Catalina Drive in January 2007.

Chair William Perras
April 9, 2007
Page 2

Staff Report

The Planning Staff report raises several potential problems to which there are good answers:

1. **Arterial access:** The building is located on Farallon Avenue. Farallon Avenue is a major street with extra width, including a middle turn lane. All of the City General Plan maps, and Mapquest, show Farallon Avenue with double width as if it is an arterial street. Farallon Avenue connects to all major arterials in the area (Doolittle, Wicks, Merced, Manor, Lewelling, Marina, and so on. Those arterials have ready connection points to I-880 and I-238. The site could not have better access. (Attachment 2, Map of Street System)

2. **Potential conflict with hazardous materials uses:** Paul Gantt, President of Safety Compliance Management, Inc., and a former Fire Chief, will be at the Planning Commission public hearing to testify to the compatibility of church uses with light industrial uses. (Attachment 3, Mr. Gantt's education and background) Hazardous materials are systematically regulated under the building code and numerous other statutes, with the most hazardous materials subject to second and third levels of containment. The building code put the onus on the user of hazardous materials to provide a system that effectively prohibits migration of hazardous materials off that particular property. There are virtually no locations other than residential neighborhoods that are not within 500 feet of businesses that have Hazardous Materials Business Plans.

Virtually all cities in the Bay Area allow churches in light industrial zones, so there is plenty of experience with this issue. In fact, Mr. Gantt is a member of Crosswinds Church, a 3000 member congregation located in an industrial zone in Dublin.

Moreover, if church uses are incompatible with light industrial uses, why did the City just rezone 196 properties, mostly in industrial locations, to the AO District? If proximity to industrial uses is fatal to proposed assembly uses, then the AO district only pretends to allow churches in San Leandro.

3. **Loss of Industrial Base:** The General Plan does express concern about encroachment of incompatible residential and retail uses into industrial areas. But a church use does not displace industrial uses the way residential and retail uses do. The church use fits within an existing industrial building, with primarily tenant improvements on the inside. The building is amenable to return to industrial use when the church use moves on, which frequently happens.

The Somar Area, like much of San Leandro, is designated for future study. But, "future study" should not be used by the City to create a de facto moratorium on uses which are compatible with light industrial uses. The issue is compatibility of this use at this location, and that is what the conditional use permit processes are for.

4. Other Compatibility Issues.

Chair William Perras
 April 9, 2007
 Page 3

- **Traffic and parking:** Church peak uses are on Sunday mornings, and evening prayer meetings. These are the times when industrial uses are at their low ebb.
- **Informal policing.** Having alert citizens coming on weekends and evenings will provide eyes on the street and enhance the security of the industrial area, which is typically abandoned and subject to vandalism at night and on weekends.
- **Amenity.** The mixed use may provide service to nearby industrial employees, as a haven, potential human services like baby sitting, and overflow parking on weekdays.
- **Neighbor support.** The actual neighboring businesses of the proposed Faith Fellowship have almost all made friends and signed letters of support. (Attachment 4: Neighbor support letters).

Churches Are a Community Amenity

In proposed Finding No. VII, that "Denial . . . does not place a substantial burden on the religious exercise of the applicant" conveys the attitude that church uses are to be discouraged, and allowed only to the legal minimum, like adult entertainment uses. In fact, churches should be encouraged and accommodated in the places where they can co-exist compatibly with their neighbors. Churches are caring communities that provide many members of the community with tremendous support, guidance, services, and connectedness that government and the private sector simply do not provide.

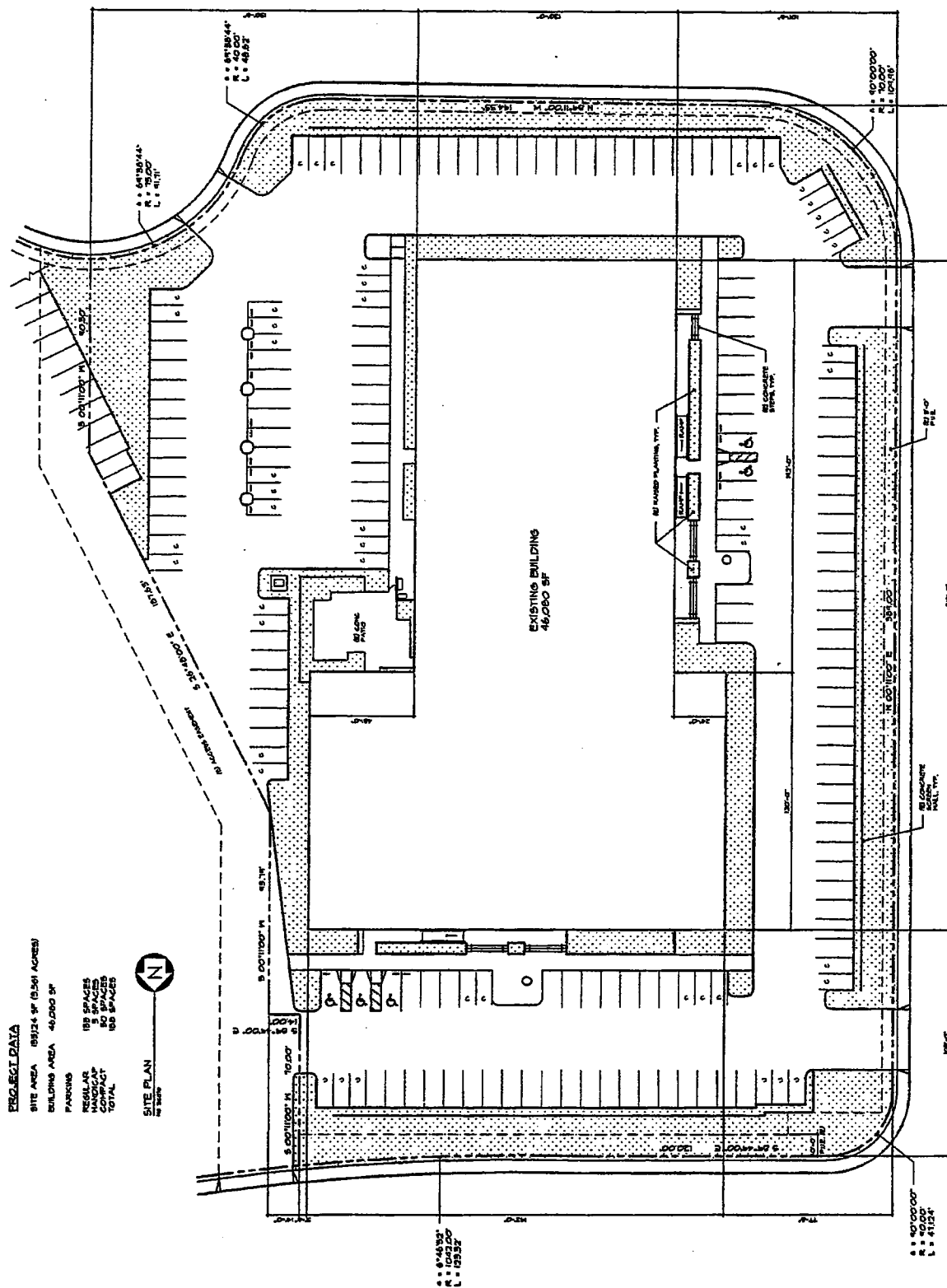
14600 Catalina Street is one of the few locations in San Leandro where a large congregation can be readily accommodated. We ask respectfully that the Planning Commission recommend approval of the proposed rezone of 14600 Catalina Drive to the AO Assembly Overlay District.

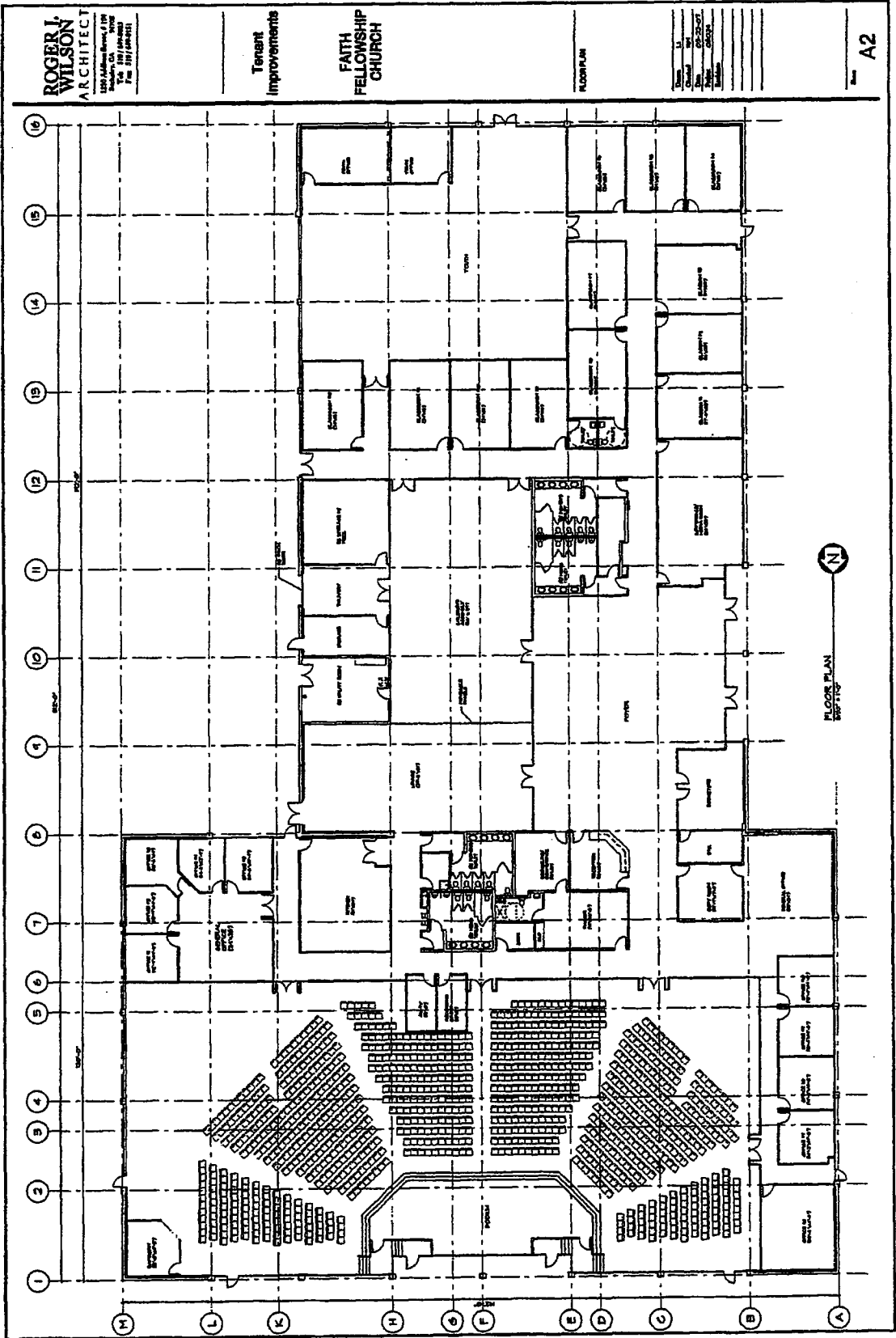
Sincerely,

Peter MacDonald
 Peter MacDonald

Attachments:

1. Site plan for Faith Fellowship church
2. Street map showing arterial access
3. Paul Gantt experience and education
4. Catalina Street support letters





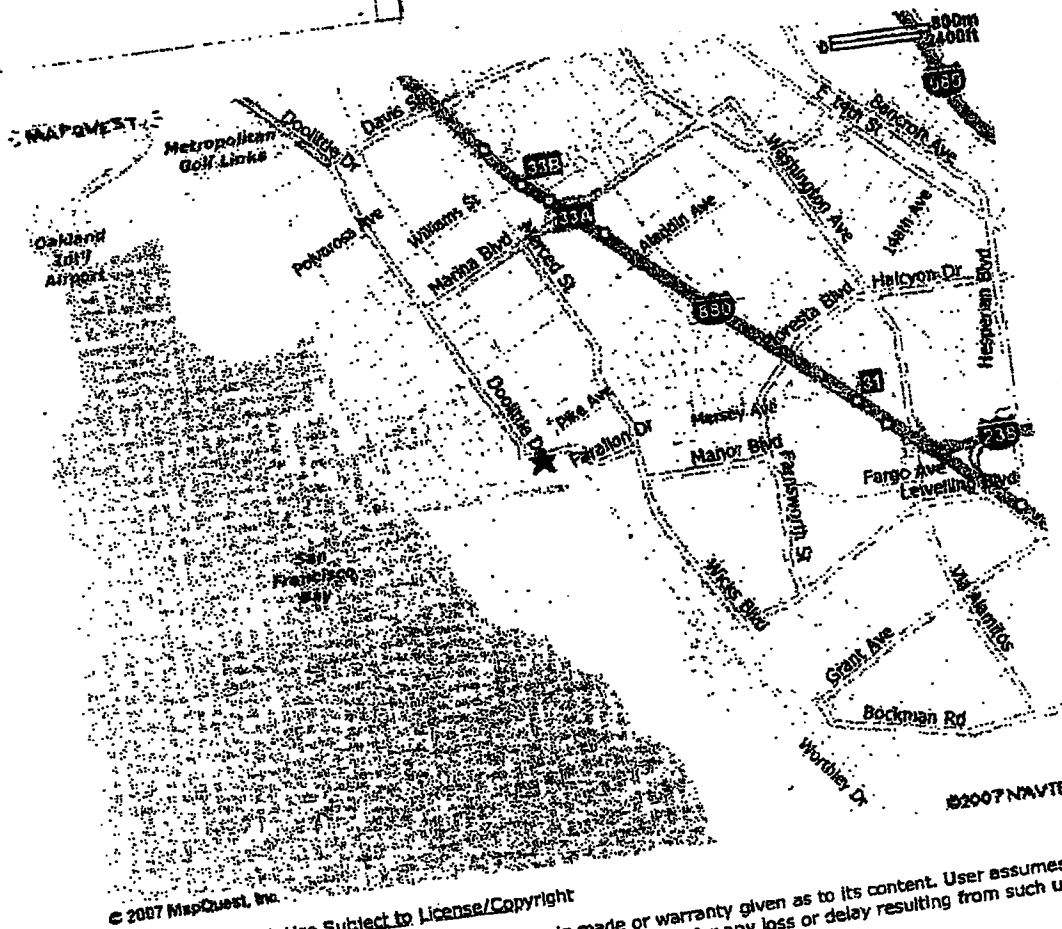
Attachment 2

MapQuest: Maps

MAPQUEST

14600 Catalina St
San Leandro CA
94577-6608 US

Notes:



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This map is informational only. No representation is made or warranty given as to its content. User assumes all risk of use. MapQuest and its suppliers assume no responsibility for any loss or delay resulting from such use.

Safety Compliance Management: Our Experts

Attachment 3

[Home](#)[Our Services](#)[Online Training](#)[Our Clients](#)[About Us](#)[News](#)**Our Experts**

Now more than ever, you need to rely on experience to help you through complicated environmental, safety and health issues. We have decades of combined practical experience in the industry.

Paul Gantt
President

Paul has more than 30 years of experience in the emergency management field. His career includes 15 years in the fire service where he held a variety of positions from firefighter to fire chief. He is certified by the State of California Office of the State Fire Marshal, Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), California Environmental Protection Agency (EPA), and the University of California to provide training programs in hazardous materials handling and response, emergency preparedness and response, occupational health and safety, and regulatory compliance.

Paul has an Associate's degree in Fire Science, Bachelor's degree in Public Administration, and certification as a Fire Officer, Fire Prevention Officer, Public Education Officer, Radiological Officer, Fire Instructor, Emergency Medical Technician, Hazardous Materials Technician and Specialist, Paramedic, Registered Environmental Assessor, and lifetime teaching credentials in several disciplines. Paul holds the Associate Safety Professional (ASP) designation. He is also the author of the textbook *Hazardous Materials: Regulations, Response, and Site Operations* which covers all aspects of chemical handling and response.

Case 3:07-cv-03605-1 Document 132-21 Filed 08/20/08 Page 44 of 53

08/20/2008 10:22 010007910

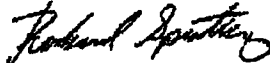
KS MULTIMEDIA INC

Attachment 4

To whom it may concern,

As a business here in San Leandro, we accept Faith Fellowship Foursquare Church as a part of our business community. We appreciate their need for a larger facility and adequate parking. We understand their only time of any significant traffic is on Sunday mornings and occasionally after hours in the evening. This will not negatively affect us. They have offered their parking lot to our employees anytime during the week. We're not aware of any negative impact they would have on this business site.

Sincerely,



Richard Spratling
Kennerley-Spratling Inc.
2118 Farallon Dr
San Leandro CA 94577

Yahoo! Mail - pastorgarymortara@yahoo.com

http://us.f547.mail.yahoo.com/ym/ShowLetter?MsgId=4069_3232582...

Yahoo! My Yahoo! Mail

Search

Web Search

YAHOO! MAILWelcome, pastorgarymortara
[Sign Out, My Account]

Mail Home - Mail Tutorials - Help

Mail Addresses Calendar Notepad

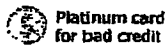
Mail For Mobile - Upgrades - Options

Check Mail

Compose

Search Mail

Search the Web

Platinum card
for bad credit[Previous](#) | [Next](#) | [Back to Messages](#)

Delete

Reply

Forward

Spam

Move...

Check Other Mail [Edit]

63.203.234.188

This message is not flagged. [Flag Message - Mark as Unread]

[Printable View](#)

Subject: New Location

Date: Thu, 19 Oct 2006 16:17:10 -0700

From: "Hess, Scott" <SHess@ksautomotive.com> [Add to Address Book](#) [Add Mobile Alert](#)

To: pastorgarymortara@yahoo.com

CC: "Hess, Scott" <SHess@ksautomotive.com>

Folders [Add - Edit]

Inbox (8)

Draft

Sent

Bulk [Empty]

Trash [Empty]

Search Shortcuts

My Photos

My Attachments

 See your
credit score: \$0 Earn a degree
in 1 yr. Refinance Rate
4.625%. Details Degrees in as
fast as 1 year

Gary,
It was really nice to meet you last month. I just wanted to touch base with you in regard to your new proposed location on Catalina and Farallon in San Leandro. If this location works out for you we would be your new neighbors on both the South and East side of your building (1480 Catalina St. and 2116 Farallon Dr). We feel that you would be a positive addition to this business park. We look forward to seeing you in the area soon. If you have any questions feel free to give me a call.

Thanks,
Scott Hess
Operations Manager
KS Automotive
Desk 510-297-5797
Cell 510-774-5525

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Spam

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To learn more about how we use your information, see our Privacy Policy

What is his city tax contribution?

10/26/2006 9:24 AM



Dave Clare
Challenge Dairy Products
14970 Catalina Street
San Leandro, CA 94577

10/25/06

Dear Dave,

My name is Gary Mortara, I am the Senior Pastor at Faith Fellowship Worship Center on Manor Blvd in San Leandro. I had the pleasure of briefly meeting with you about a month ago and you were so gracious with your time to talk with me and I appreciated it. We will soon be your neighbors. As you know we are purchasing the building next to you at 14600 Catalina Street. You and your employees are more than welcome to park at our facility throughout the week, because, we only use the building after hours on week nights and on Sunday mornings for few hours. This is our way of saying to you that we want to be good neighbors with you and the community. We are almost finished with escrow and are now starting the interior plans of the building. We could use your help in a small but very important way. We need your signature on this letter to the City confirming that it is okay with you for a church to move into the area. I cannot tell you how much that would assist us in this endeavor.

So, if you could please sign this letter. I will fax it over to the City. This would be greatly appreciated. If you would like to talk to me personally, my office and cell phone numbers are as follows:

Bus. (510) 357-5723 Cell (510) 773-8513

Thank you so much for your time and assistance in this matter, if there is anything I can do for you, please let me know.

Sincerely

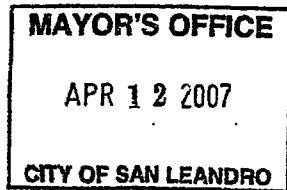
Gary Mortara
Senior Pastor
Faith Fellowship Worship Center

Jesus Christ: Saviour, Healer, Baptizer, Coming King

577 Manor Boulevard • San Leandro, CA 94579 • (510) 357-5723 • www.faith-fellowship.us

Case 3:07-cv-03605 -1 Document 132-21 Filed 08/20/08 Page 47 of 53

April 9, 2007



Mayor Tony Santos and members of the San Leandro City Council
835 El4th St.
San Leandro, Ca. 94577

Dear Mayor Tony Santos and members of the San Leandro City Council

A request has come to the attention of the Marina Faire Homeowners Association that a petition has been received from Faith Fellowship Foursquare Church for rezone and map amendments at 14600 and 14850 Catalina, applicant/property owners for assembly use using a newly created overlay.

We of the Marina Faire Homeowners Association urge that the request be denied for the following:

TRAFFIC - a great deal of traffic flows on Doolittle Dr. and Farallon. An increase of Traffic will increase the congestion, noise and pollution in our community.

PARKING - will have on-going parking issues on public streets.

TAX IMPLICATIONS - will deprive the City of San Leandro needed tax revenue.

Very truly

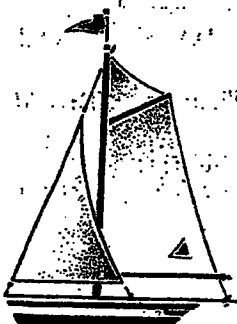
A handwritten signature in cursive script, appearing to read "Betty Bailey".

Betty Bailey, president

A logo featuring a stylized sailboat with three sails (two large, one small) and a mast. To the right of the sailboat, the text "Marina Faire Homeowners Association, Inc." is written in a serif font.

Marina Faire
Homeowners Association, Inc.

Beatrice E. Bailey
(Betty)
14171 Santiago Road
San Leandro, CA 94577-6527



MARINA FAIRE HOMEOWNERS ASSOCIATION, INC

Case 3:07-cv-03605 Document 132-21 Filed 08/2/08 Page 48 of 53

2205 Belvedere Ave., San Leandro, CA 94577

TO: Planning Commission, City of San Leandro
City Council, City of San Leandro

April 6, 2007

We the undersigned understand that Faith Fellowship Church is relocating to the industrial building on 14600 Catalina Ave, San Leandro.

The church has approximately 1500 members. Their move into our neighborhood will cause many problems such as noise, pollution, and traffic congestion. Further growth will tremendously exacerbate the problems.

By occupying the industrial building, the City will be denied substantial tax revenue which can be used to improve services.

We strongly protest against the move and urge the Planning Commission and City Council to deny permission for the industrial property to be converted to a Church.



Suman Sharma



Sarojini Sharma

Case 3:07-cv-03605 -1 Document 132-21 Filed 08/2008 Page 49 of 53

PETITION

Marina Fair Plaza

To: The San Leandro City Council:

WHEREAS, Faith Fellowship Worship Center, located at 577 Manor Boulevard, San Leandro, California, has served this community for many years, bringing positive recognition to the City of San Leandro, California, and

WHEREAS, The congregation of Faith fellowship has grown to such size as to create challenges for the neighborhood, such as traffic and parking, and

WHEREAS, We the undersigned, are informed that Faith Fellowship has proposed to the appropriate officials of the City of San Leandro, California that Faith Fellowship be permitted to move from their present location to a much larger site located at 14800 Catalina, San Leandro, California.

NOW THEREFORE, We pray that the San Leandro City Council will hear our plea and make such adjustments as may be necessary to the planning and zoning ordinances and regulations so we may keep this valuable asset in San Leandro, California.

SIGNATURE	ADDRESS	PRINT NAME and TELEPHONE NUMBER	DATE OF SIGNING
1. <i>Lin, Lili</i>	13972	IG Insurance	
2. <i>Jinder Kaur</i>	13892 Don Little Drive	Jinder Kaur	
3. <i>MENIN CASTRO</i>	ZEN'S RESTAURANT 13876 DON LITTLE DR	MENIN CASTRO (708) 357-3912	11-17-06
4. <i>Am Tan</i>	13762 Don Little Dr. Hing Hing Garden Delight	Am Tan (510) 903-1848	11/17/06
5. <i>Jack Lin</i>	13760 Don Little Dr. San Leandro CA 94577	Jack Lin 510 895 2885	11/17/06
6. <i>Anne Yau</i>	13756 Don Little Dr. San Leandro CA 94577	Anne Yau	
7. <i>Joanna Orr</i>	13754 Don Little DR San Leandro, CA 94577	Joanna Orr	11/17/06
8. <i>Lily Chen</i>	13740 Don Little Dr San Leandro CA 94577	Lily Chen	11/17/06
9. <i>EL AMIGO #1 RESTAURANT</i>	13704 DON LITTLE DR San Leandro CA 94577	EL AMIGO #1 RESTAURANT	
10. <i>EL AMIGO #1 RESTAURANT</i>	13700 Don Little DR. San Leandro CA 94577	EL AMIGO #1 RESTAURANT	

Certification of Circulator

(print name of circulator)

I, M.H. Lacey certify: I personally circulated this petition and personally obtained each of the signatures on this paper. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I support this petition.

11-17-06

(date)

(signature of circulator)

14101 E. 14th St #310 San Leandro CA

94578

(circulator's residence - include number, street, and municipality)

Certification of Circulator - The circulator shall personally present the petition to each signer. The circulator may not leave the petition papers unattended on counters or posted on bulletin boards. After obtaining the signatures, the circulator must complete, sign and date the certification on each page of the petition.

Case 3:07-cv-03605 I Document 132-21 Filed 08/2 08 Page 50 of 53

(Manor Community)
PETITION

To: The San Leandro City Council:

WHEREAS, Faith Fellowship Worship Center, located at 577 Manor Boulevard, San Leandro, California, has served this community for many years, bringing positive recognition to the City of San Leandro, California, and

WHEREAS, The congregation of Faith fellowship has grown to such size as to create challenges for the neighborhood, such as traffic and parking, and

WHEREAS, We the undersigned, are informed that Faith Fellowship has proposed to the appropriate officials of the City of San Leandro, California that Faith Fellowship be permitted to move from their present location to a much larger site located at 14600 Catalina, San Leandro, California.

NOW THEREFORE, We pray that the San Leandro City Council will hear our plea and make such adjustments as may be necessary to the planning and zoning ordinances and regulations so we may keep this valuable asset in San Leandro, California.

Total 201

SIGNATURE	ADDRESS	PRINT NAME and TELEPHONE NUMBER	DATE OF SIGNING
1. <i>[Signature]</i>	15156 FLEMING	REYJEN FREITAS	3/3/07
2. <i>[Signature]</i>	SAN LEANDRO CA 94761		
3. <i>[Signature]</i>	15116 Fleming St.	Tommy Tan	3-3-07
4. <i>[Signature]</i>	SAN LEANDRO CA	SAL	
5. <i>[Signature]</i>	15040 FLEMING ST	LEUNG	3/3/07
6. <i>[Signature]</i>	SAN LEANDRO CA	Vicki Palo	3/3/07
7. <i>[Signature]</i>	15065 - Fleming St	EDWARD FLORES	3/3/07
8. <i>[Signature]</i>	985 MANOR BLVD	YOUNG-SHIM	3/3/07
9. <i>[Signature]</i>	San Leandro CA 94769	CC. MORRIS	
10. <i>[Signature]</i>	420 Brooklyn Ave		
11. <i>[Signature]</i>	San Leandro CA 94779		
12. <i>[Signature]</i>	15211 Farnsworth St	Enrique To	3/3/07
13. <i>[Signature]</i>	SAN LEANDRO	PAUL WILLIAMS SA	3/3/07
14. <i>[Signature]</i>	15230 FARNSWORTH ST 94778	(510) 776-8272	

(print name of circulator)

Certification of Circulator

I, *[Signature]* certify: I personally circulated this petition and personally obtained each of the signatures on this paper. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I support this petition.

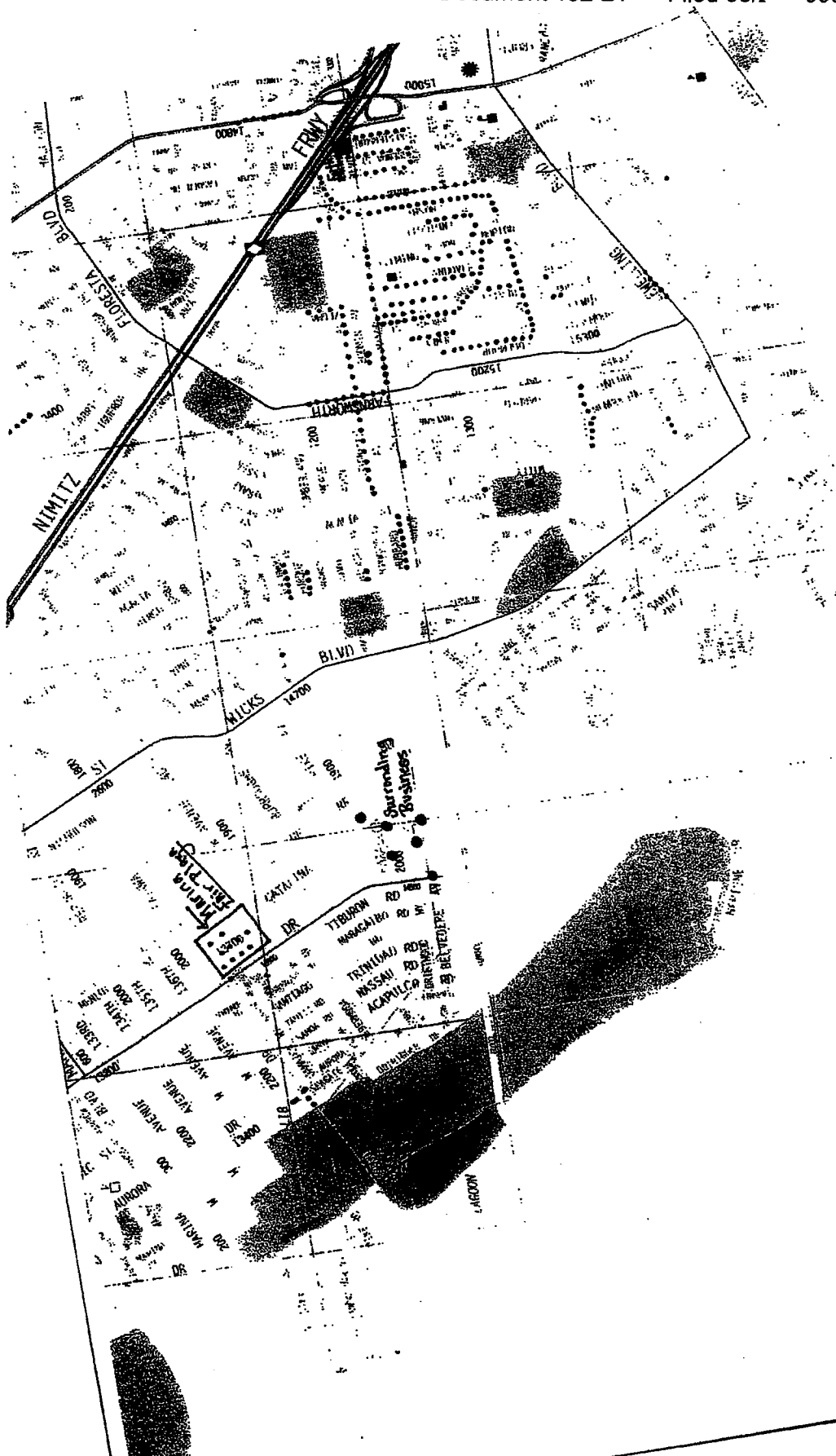
3-3-07
(date)

(signature of circulator)

14101 E.14 San Leandro

(circulator's residence - include number, street, and municipality)

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Case 3:07-cv-03605 H Document 132-21 Filed 08/08 Page 52 of 53

PETITION

To: The San Leandro City Council:

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SIGNATURE	ADDRESS	PRINT NAME and TELEPHONE NUMBER	DATE OF SIGNING
1. <i>T. Stinner</i>	5371 Starflower Livermore CA 94551	Terri Stinner 925-447-0256	2/26/07
2. <i>Esther Collier</i>	694 Douglas Dr. San Leandro	Esther Collier (510) 562-4024	2/27/07
3. <i>Yippi Kladts</i>	148 Dutton Ave. San Leandro	Yippi Kladts 510-635-9415	2/27/07
4. <i>Joseph K. Collier</i>	694 Douglas Dr. S.L.	JOSEPH COLLIER 510-562-4024	2/27/07
5. <i>Beverly Leary</i>	2451 Crestview S. Lea.	Beverly J. Leary 510-278-1424	3-5-07
6.			
7. <i>Marilyn Carcot</i>	16264 Lyle St S.L. CA 94578	Marilyn Carcot 510-278-9006	3-5-07
8. <i>William Carcot</i>	16264 Lyle St SAN LEANDRO, CA 94578	William Carcot 510-278-9006	3-5-07
9.			
10.			

Certification of Circulator

(print name of circulator)

I, KAMMI MACDONALD certify: I personally circulated this petition and personally obtained each of the signatures on this paper. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I support this petition.

Kammi McDonald
(date) 3/5/07 (signature of circulator)

2431 CRESTVIEW CT. SAN LEANDRO
(circulator's residence - include number, street, and municipality) 94578

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Case 3:07-cv-03605- Document 132-21 Filed 08/2 08 Page 53 of 53

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SIGNATURE	ADDRESS	PRINT NAME and TELEPHONE NUMBER	DATE OF SIGNING
1. <i>Gloria J. Edick</i>	744 Bancroft Avenue San Leandro 94577	GLORIA EDICK 510/638-4869	3/1/07
2. <i>Sally Duby</i>	23611 Fleet Bay Alameda, CA 94502	Sally Duby 510-522-2489	3/1/07
3. <i>Medina Lucero</i>	24308 Edith St Hayward CA 94544	Medina Lucero (510) 581-5644	3/5/07
4. <i>Betty Parker</i>	21100 Gurney Dr #214 Hayward CA 94546	Betty PARKER 510 582 9998	3/5/07
5. <i>Susan Malone</i>	1377 Sundell Ct. San Leandro Ca. 94577	Susan Malone 510-467-5908	3/5/07
6. <i>Caetan Dagdagan</i>	497 Elmhurst St. Hayward CA	Caetan Dagdagan 510 331-8809	3/5/07
7. <i>Chuck Heine</i>	18453 WAGNER C.V. CA 94546	CHUCK HEINE- 510-589-8303	3/5/07
8. <i>Rachel Cimino</i>	6000 Castlebrook Dr CV	510-582-4954	3/5/07
9. <i>Jose Rodriguez Jr.</i>	2757 JENNIFER DR. CASTRO VALLEY, CA 94546	JOSE RODRIGUEZ, JR. 510-537-8113	3/5/07
10. <i>Russ Barkley - Jr.</i>	3587 Castro Valley Blvd Castro Valley, CA 94546	510 583-5435	3/5/07

Certification of Circulator

(print name of circulator)

I, KAMMI MACDONALD certify: I personally circulated this petition and personally obtained each of the signatures on this paper. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I support this petition.

Kammi Macdonald

(date)

(signature of circulator)

2431 CRESTVIEW CT. SAN LEANDRO

(circulator's residence - include number, street, and municipality)

3/5/07

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